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Senate

(Legislative day of Friday, October 2, 1998)

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

PRAYER

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

Almighty God, the only Source of lasting, authentic courage, this morning, we turn to the psalmist and to Jesus for the bracing truth about courage to see things through—not just to the end of the Congress but to the accomplishment of Your ends. David reminds us, ''Be of good courage, and He shall strengthen your heart, all you who hope in the Lord.''—Ps. 31:24. Jesus assures us, ''You will have tribulation, but take courage.''—John 16:33 NASB. We know we can take courage to press on because You have taken hold of us. You have called us to serve You because You have chosen to get Your work done through us. Bless the Senators as they confront the issues of the budget, consider creative compromises, and seek to bring this Congress to a conclusion. In this quiet moment, may they take courage and press on. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately proceed to a rollcall vote on adoption of the omnibus appropriations conference report. Following that vote, several Senators will be recognized to speak on or in relation to the omnibus spending measure, or to make any other concluding remarks they would like to offer today. After those remarks have been made, the Senate may consider any legislative or executive matters that can be cleared by unanimous consent.

OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the clerk will report the conference report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4328), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

NOTICE

When the 105th Congress adjourns sine die on or before October 22, 1998, a final issue of the Congressional Record for the 105th Congress will be published on November 12, 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 S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through November 10. The final issue will be dated November 12, 1998, and will be delivered on Friday, November 13.

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 ''Record@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.*

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

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The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 19, 1998.)

Mr. LOTT. Mr. President, if there is no objection, I would like to engage in a colloquy with the distinguished Chairman of the Appropriations Committee, the senior Senator from Alaska.

Mr. STEVENS. I would be happy to.

Mr. LOTT. I understand that this bill contains a provision which prohibits the FBI from charging a user fee or gun tax on all firearms purchases that take place once the national instant criminal background check system takes effect on November 30 of this year—Is that correct?

Mr. STEVENS. Yes. The Brady Act did not intend, nor did it authorize the Department of Justice to charge a tax or fee to law abiding citizens to exercise their Second Amendment right. The National Instant Check System (NICS) is a national criminal justice program which was designed to quickly screen prospective firearms purchasers—weeding out prohibited gun pruchases while ensuring that the sale of a firearm to a law-abiding citizen could go forth without significant delay. The NICS is a federal program of benefit to all citizens and therefore the cost should be and will be borne by the federal government in view of the absence of any enabling provision relating to assessment of a user fee to gun owners.

Mr. LOTT. I am pleased to hear that, since I supported the establishment and the creation of a national instant check program. It was certainly my understanding that this program was meant to facilitate gun purchases by law abiding Americans and not cause a chilling effect on our rights. We have provided millions of dollars—including $42 million in this bill—for the FBI to implement NICS pursuant to the law. As I also remember, NICS is specifically prohibited from becoming a repository of approved firearms transfer records and firearms owners? Is that correct?

Mr. STEVENS. Again the Senator is correct. The establishment of NICS contained important elements in the law designed to protect the privacy of individual law-abiding gun owners. One of the greatest concerns and legitimate fears of law abiding gun owners is that the federal government will create a federal gun owner registration system where law abiding gun owners exercise of their constitutional rights will be carefully monitored. This is why there are a number of provisions in law which prohibit such action by the government. One such law is the Firearms Owners Protection Act, passed in 1986, which specifically prohibits any record of firearms owners and firearms purchases from being maintained or recorded, for any period of time, in a facility owned, managed, or controlled by the United States government.

Mr. LOTT. I thank the Senator for making that point clear. Is it not also the case that the Brady law itself includes a prohibition on the centralization and creation of a federal gun registration system?

Mr. STEVENS. Yes, the Brady Act clearly states that upon approval of a firearm transaction, the instant check system shall ''destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the transfer.'' 18 U.S.C. §922(t)(2). Additionally, Section 103 of the Brady Act prohibits the establishment of a firearms registration system to prevent any records generated by the instant check system from being transferred to a facility owned, managed or controlled by the United States government.

Mr. LOTT. Well, let me understand something. Does that mean that the FBI or the Department of Justice would be able to collect and maintain all personally identifying information on transactions relating to approved firearms transfers for one and one half years, or for any period of time?

Mr. STEVENS. The national instant criminal background check system clearly prohibits such action by the FBI. The centralization and retention of firearms transaction information and records on firearm owners would create a de facto system of firearms registration which has clearly not intended by the Brady Act or any other provision of federal law. In fact it was specifically prohibited.

Mr. LOTT. Specifically, though, is the NICS statute clear on this prohibition of maintaining an audit log or other repository of approved firearms transaction and personal information on firearms owners? Is there any doubt as to Congress' intent in this regard?

Mr. STEVENS. I do not believe the law could be any clearer. The NICS statute is transparent and unambiguous on the point that the instant check system ''shall destroy'' such records. Subsection (t)(2) of 18 United States Code, Section 922, is clearly drafted so that destruction of an approved firearms transaction and personal identifying records shall occur contemporaneously upon the system's approval of the firearms transfer, the assignment of a unique identifying number, and upon the immediate voice or electronic conveyance of such approval and unique identifying number to the federal firearms dealer making the NICS inquiry.

Mr. LOTT. Is there any information that the FBI is permitted to maintain from an approved firearms transaction that goes through NICS?

Mr. STEVENS. The only information or records on approved firearms transfers that the FBI is permitted to maintain in a central registry is the ''NICS Transaction Number'' (NTN) and the date the transaction was requested. See, 18 U.S.C. §922(t)(2)(C).

Mr. LOTT. I would like to be sure that the rights of law abiding gun owners are not violated by FBI's operation of NICS. Do you have any suggestions in this regard, to ensure that the laws are being followed?

Mr. STEVENS. I suggest that a General Accounting Office (GAO) audit be conducted periodically to ensure Americans that the retention of information and records run through the NICS is not being maintained, for any purpose, unlawfully.

Mr. LOTT. I certainly would second that recommendation. This matter is too important to the American people to allow any opportunity for abuse.

Mr. DASCHLE. Mr. President, the statement of managers contains language concerning the proposed HCFA rule that would defer to state law on the issue of physician supervision of nurse anesthetists. As I understand it, this is non-statutory language, and nothing in the bill would prohibit HCFA from moving forward with the publication of the final rule on this issue. I would like to ask my colleague from North Dakota, who is a member of the Committee on Appropriations, is that his understanding of the language as well?

Mr. DORGAN. Mr. President, the language to which my colleague refers is only included in the statement of managers and does not have a binding effect on HCFA. As a matter of law, nothing in the bill or the report language would prohibit HCFA from moving forward with the final rule.

Mr. DASCHLE. Mr. President, then it would be correct that HCFA could base its final decision on data or information that is already available, rather than conducting any new studies. My concern here is to ensure that HCFA is neither discouraged from nor delayed in moving forward in publishing a final rule. It is my understanding that nothing in the report language of this year's Labor/HHS Appropriations bill would prevent HCFA from moving ahead and that any further review of data could follow HCFA's publication of a final rule.

Mr. DORGAN. Mr. President, the Senator is correct. The statement of managers does not mandate, as a matter of law, any further studies by HCFA on this issue. Nor would HCFA be impeded from moving forward with issuing a final rule regarding the physician supervision issue. In fact, the language clearly states it is not intended to discourage or delay HCFA from moving forward.

I know this issue is particularly important to some of us because nurse anesthetists are the sole anesthesia providers in 70% of rural hospitals. Finalizing this proposed rule is critical to rural America.

Mr. CONRAD. Mr. President, I appreciate the responses from my colleague from North Dakota, and I wish to briefly comment on this matter. As the

sponsor in previous congresses of legislation that would require HCFA to defer to state law on this issue, I am pleased that HCFA has finally issued a proposed rule that would in fact defer to state law. This issue has been hanging over us for many years, and it seems that the only way to finally resolve it is for HCFA to publish its final rule based upon the proposed rule and let the states decide. As a member of the Senate Finance Committee, I would add that we included a provision in our Medicare package in 1995 that would defer to state law on the issue of physician supervision of nurse anesthetists. That provision was not included in the final package as a result of an agreement between the two associations to focus on a reimbursement issue instead. However, I want to emphasize earlier comments that HCFA should neither be discouraged nor delayed in moving forward in publishing a final rule.

Mr. DORGAN. Mr. President, I share my colleague from North Dakota's position on the nurse anesthetist issue and thank him for his comments. I believe that HCFA should move forward and issue a final rule removing the physician supervision requirement and defer to state law.

Mr. DASCHLE. Mr. President, I thank my colleagues for their comments regarding the statement of managers' language on nurse anesthetists, an issue important to all of us, and know we all will follow the issue closely in the months to come.

Mr. STEVENS. Mr. President, I would like to engage the distinguished Senator form New Mexico, the chairman of the Energy and Water Development Subcommittee, on the subject of funding which is provided in P.L. 105–245 for the existing joint U.S.—Russian program, for the development of gas reactor technology to dispose of excess weapons-derived plutonium.

As the chairman of the subcommittee knows, the purpose of this program is to develop a new reactor technology which is not only more efficient in burning weapons plutonium but is melt-down proof and more thermally efficient than existing reactors. Because of the promise of this technology, the Russians are very enthusiastic about it and the French nuclear company Framatome and the Japanese company Fuji Electric have been active participants. Further, because most of the technical work on this program is being performed by Russian nuclear scientists and engineers, program costs are reduced considerably the those same Russian scientist and engineers are engaged in stimulating non-nuclear weapons work.

It is my understanding that this unique and innovative U.S.—Russian program to destroy weapons plutonium is the result of the very considerable expense and efforts of a particular U.S. company over several years. Is this also the Subcommittee Chairman's understanding?

Mr. DOMENICI. Yes, it is.

Mr. STEVENS. Is it also the Senator's understanding that from all indications, this program has been well run and has an existing and effective management structure with both U.S. and Russian representation?

Mr. DOMENICI. Yes it certainly is. I would note that Secretary of Energy Pena noted and has appreciated the cooperation that has occurred in this area under the current partnership program. In a joint statement signed on March 11 of this year, Secretary Pena and Deputy Minister of Minatom Mr. Ryabev specified those areas in which further scientific research will be necessary; plutonium fuel, neutron physics, and materials. That joint statement was an important indicator of the success and purpose of the gas reactor partnership and future efforts should be consistent with that statement.

Mr. STEVENS. Then I would like to ask the Senator from New Mexico his understanding of language in the report that states that of the $5 million made available for this program in Fiscal Year 1999, $2 million is for ''work to be performed in the United States by the Department of Energy and other U.S. contractors.'' Specifically, is it the Senator's understanding or intent that the Department of Energy should receive most of this money or impose a new management structure over this program that is working so well and is so well accepted by the Russians?

Mr. DOMENICI. I thank the Senator from Alaska for raising this key issue. I can assure the Senator it is my wish that the Department of Energy utilize the already established partnership that created this important program and has management it so well.

Mr. STEVENS. I thank the distinguished Senator from New Mexico for this clarification.

Mr. GRASSLEY. Mr. President, Otto von Bismarck, former Chancellor of Germany, once said, ''Laws are like sausages. It is better not to see them being made.'' Yet even Bismarck would have gagged over how this bill evolved.

Several times in recent years, I have disparaged the process of eleventh-hour budgeting because it inevitably leads to one thing: a rising tide that lifts all spending. All the Republican programs get higher funding, all the Democrat programs get more funding. The budget busts apart at the seams. The taxpayers are the losers.

And it's not just the budget process. Bismarck would have croaked had he seen how the normal legislative process—bad as it is—was bypassed, becoming a free-for-all. It's as if the Clinton Administration and the Congress had a power outage, and the looters came from everywhere and picked the taxpayers' pockets clean. The legislative process was stripped of its integrity.

This isn't an ''omnibus'' bill; it's an ''ominous'' bill.

Many of us in this body have brought the good news home to our constituents. We have delivered the first balanced budget in a generation. We created surpluses as far as the eye can see. The debt is finally being paid down. Our children have a brighter future because of it. And Social Security will be saved for the Baby Boomer generation. This is the vision we had when we passed the bipartisan Balanced Budget Act of 1997.

I intend to vote against this bill. The reason is because it threatens that vision. A vision we committed to just one year ago. Specifically, there are three reasons I oppose it. First, it threatens what we accomplished last year. It compromises the Balanced Budget Act. This bill proves that the Clinton White House and Congress can never resist the temptation to spend money, even though we've promised to save the money for Social Security and to pay down the debt. That signifies a total lack of fiscal discipline.

Second, it squanders the surplus. It would soak up $21 billion of it in the coming year alone. This is just one month after the announcement of the nation's first surplus in 29 years. Both sides were patting each other on the back. Meanwhile, we couldn't wait to spend it. We could have and should have found offsets for this money. I predict that in coming years, this will be Congress' way around the budget agreement—Call any program an emergency and the budget agreement is bypassed.

Third, the bill, is a budget-buster. Maybe not technically, maybe not now. But in pushing $4.1 billion of spending decisions into next year, it's the first die cast in ensuring another rising tide of spending next year. In addition, it's not really clear what the budgetary impact is of all the legislative mushrooms we're passing in this budget. The funding for these programs is like fertilizer. And next year these mushrooms become BIG mushrooms. And that creates further budgetary pressures for more spending.

In short, Mr. President, this process shows we have reverted to the same attitude, the same mindset, the same practice, that brought us monumental debt levels in the first place.

Moreover, I deplore the intellectual dishonesty of the President of the United States. For nine months, I have been applauding his stated commitment to save the surplus to ensure the viability of Social Security. Then he pushes for a budget that spends $21 billion of that surplus in just one year. The following day, the President appears in the Rose Garden and announces we've agreed to a budget deal, and saved Social Security in the process.

Mr. President, this cynical statement by the President, and the precedent it sets, hasn't saved Social Security. It has threatened Social Security. It has opened up the flood gates. It ensures future raids on future surpluses. And the President now has no moral authority to use those surpluses exclusively for Social Security. He squandered that moral authority.

It is also intellectually dishonest of the President to oppose tax cuts, using the argument that tax cuts would jeopardize Social Security, yet assume that spending the surplus would not.

These reasons, Mr. President, constitute why I am seriously disappointed in this process, and in this budget. I regret my vote against it because there are many provisions in this bill that I fully support. Some of them I am even responsible for.

For instance, there is approximately $300 million for Iowa farmers in additional relief. The relief package includes AMTA payments, disaster assistance and new operating loans. In addition, there is tax relief for farmers, including Permanent Income Averaging, accelerated health insurance premium deductibility, and a 5-year net operating loss carry-back.

There are other provisions I fought for and support. Chief among them are:

Home health care funding; Education funding for new teachers; Head Start funding; IMF reforms and funding; Extension of Chapter 12 bankruptcy provisions for family farmers; LIHEAP funding at levels beyond the administration's request; Anti-drug funding; and, Roads and highways funding, at the highest levels in history.

These are all provisions that I worked hard for, supported and that I believe are essential. However, they could have been paid for without this revival of the practice of incrementally mortgaging the future.

The easy thing for me to do would be to vote for this bill. But when the process of governing breaks down and puts our commitments and our future at risk; when Congress's recent fiscal discipline falls apart; and, when our elected leadership abdicates its responsibilities of governing, it's time, in my view, to say ''no.''

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. FAIRCLOTH. Mr. President, I rise to make a few remarks concerning the conference report on the Columbia appropriations, fiscal year 1999. This conference report is the product of a productive debate between the Senate and House subcommittees. This is a good bill, a bipartisan bill, and I urge my colleagues to support it.

I want to thank my subcommittee members, Senator BOXER, the ranking member, and Senator HUTCHISON for their hard work and assistance in putting the Senate bill together. I would also like to thank the chairman of the Senate Appropriations Committee, Senator STEVENS, and the distinguished ranking member, Senator BYRD, for their guidance and support.

Mr. President, the conference report largely ratifies the consensus budget for local funds adopted by the Mayor, the Council, and the Financial Authority. The Congress created that budget process, and it has imposed some much needed fiscal discipline on the District's budget. Instead of drowning in red ink, the budget of the Nation's Capital is now solidly in the black, with a surplus of over $300,000,000 for fiscal year 1998.

The conference report appropriates over $372,000,000 for implementation of the National Capital Revitalization and Self-Government Improvement Act of 1997. With the exception of the capital budget for the District court system, the conference report supports the President's budget request for implementation of the act.

The conferees did not provide the $50,000,000 requested by the President to capitalize the National Capital Revitalization Corporation [NCRC]. The Congress has not been consulted as to either the composition of the Board of the NCRC, its duties, the scope of its activities, the relationship between the NCRC and other Federal or local agencies, the relationship between the NCRC and Congress, or the extent to which actions taken by the NCRC may conflict with previous economic incentives adopted by the Congress on behalf of the District. Despite these concerns, the President's nonemergency supplemental request included $25,000,000 to capitalize the NCRC.

The District of Columbia was recently named the worst city in the country to raise children. The children of our Nation's Capital deserve better. Our conference report provides $7,000,000 to pay for new facilities at the Boys Town operations in the District; over $15,000,000 for public charter schools; and $200,000 for mentoring services for at-risk children.

The conference report also provides funding for several nonprofit organizations located in the District of Columbia. These projects have broad bipartisan support and will bolster the District's downtown revitalization efforts.

The conference report provides over $75,000,000 in Federal funds to improve public safety and repair a crumbling infrastructure in the Nation's Capital. Included in this amount is over $18,000,000 for repairs to the District's public safety facilities, including badly needed capital improvements to Metropolitan Police Department [MPD] facilities. In addition, the conference report provides the United States Park Police with $8,500,000 for a new helicopter, which will assist the MPD in meeting the District's public safety needs. In addition, the conference report appropriates $25,000 to expand the subway station next to the planned Washington Convention Center.

Perhaps most important, the conference report includes $25,000,000 to continue the work of management reform. If there is one reason why the Nation's Capital has any hope of recovery, it is because District agencies which have been mismanaged for years are finally being reformed and restructured. The Financial Authority and the District's Chief Management Officer, Camille Barnett, are now midway through the process of cleaning up the largest agencies of the District government. While the District is making headway in reversing years of mismanagement, much work needs to be done to improve service delivery to District residents. The funds provided in this bill will go toward projects that will enhance government efficiency and service delivery, such as expanded emergency medical services and technology modernization.

The conference report prohibits the use of Federal and local funds for the implementation of a needle exchange program; for abortion; and for a ballot initiative to legalize controlled substances. It also provides badly needed adoption reforms for the District of Columbia.

This conference report would not have been possible without the hard work and cooperation of my friend, Congressman CHARLES TAYLOR, the chairman of the House Subcommittee on the District of Columbia. We are confident that this conference report will be supported by the Senate, the House of Representatives, and the President.

SECTION 139 OF INTERIOR TITLE

Mr. BINGAMAN. Mr. President, I would like to express my appreciation to the managers of the Interior title of the Omnibus Appropriations Act for including section 139, which ratifies payments made by small refiners under preexisting onshore and offshore royalty-in-kind programs. I was pleased to work with Senators ENZI, DOMENICI, THOMAS, JOHNSON, and LANDRIEU on this issue. My office served as the point of contact between the Minerals Management Service and the small refiners in negotiating the final text of this section, which was then included by the managers in the bill, so I would like to make two observations in relation to it. The purpose of this section is to relieve small refiners of potential additional financial obligations that they are not in a position to bear, and to avoid the likelihood that a number of small refiners who participated in a federal program to increase their access to crude oil for refining would be forced into bankruptcy over a question as to whether the amount invoiced by government for that crude oil was correct or not. I do not believe that anything in this section should be construed as expressing congressional intent on any question other than the one of whether small refiners should be relieved of this potential problem. In my opinion, this section does not constitute a congressional view for or against the use of posted prices for the valuation of crude oil produced from federal leases.

CWC IMPLEMENTATION ACT OF 1998

● Mr. HELMS. Mr. President, following Senate approval of the resolution of ratification for the Chemical Weapons Convention (CWC) and subsequent ratification of the treaty by the President, it became necessary for the United States to enact legislation to implement its various domestic obligations. The Foreign Relations and Judiciary Committees of the Senate immediately fulfilled their obligation to prepare implementing legislation once the treaty

had been ratified. On May 23, 1997, the full Senate passed S. 610—''the Chemical Weapons Convention Implementation Act of 1997.'' Soon thereafter, on November 12, 1997, the House of Representatives passed the implementing legislation, together with sanctions on Russian firms that are assisting Iran's ballistic missile program.

I regret that it has taken so long to enact the implementing legislation into law, if for no other reason than that I expect numerous U.S. companies to challenge the constitutionality of the treaty and overturn it in the courts. Unfortunately, final resolution of the legal issues surrounding the CWC, as well as full U.S. compliance with the treaty, has been delayed this entire session of Congress because of President Clinton's opposition to the unrelated missile sanctions provisions of the bill. Indeed, the President sought to delay and derail CWC implementing legislation throughout the entire spring. The President alone is responsible for putting the United States into noncompliance by delaying and then ultimately vetoing the bill (on June 23, 1998).

It is important that those who are frustrated with the slow pace of U.S. implementation of the CWC understand that the Congress has discharged its obligation to provide implementing legislation for the President's signature not once—but twice. It is the President, not Congress, who has blocked speedy and complete adherence to the treaty.

For the record, I note that two trade associations were directly involved in the crafting of the CWC's implementing legislation. The President and CEO of the Chemical Manufacturers Association wrote to me on May 7, 1998, stating that S. 610 was ''a reasonable approach to meet U.S. obligations under the CWC and protect industry's interests.'' The Vice President for Regulatory Affairs of the American Forest and Paper Association wrote to Senator HATCH on May 21, 1997, offering its support for S. 610 since the bill ''contains a number of provisions that the forest products industry believes are crucial to ensuring that implementation of the CWC is reasonable and meets the stated purpose of the treaty.''

I submit the following assessment which details the most significant provisions of the implementing legislation, together with an explanation of the Senate's rationale.

Section 3. Definitions. Section 3 specifically lists those chemical formulae (and a few biotoxins) falling under the terms: ''Schedule 1 chemical agent''; ''Schedule 2 chemical agent''; and ''Schedule 3 chemical agent''. Any chemical not listed in Section 3 as either a Schedule 1, 2, or 3 chemical agent is not subject to the any of the requirements under the legislation relating to such chemical agents (e.g. data declaration and routine inspections).

The Annex on Chemicals of the CWC excludes some chemicals which are capable of being used as chemical weapons precursors, but which also have wide commercial applications. As a result, verification measures are not applied under the Convention to those chemicals. For this reason, if the CWC were to be expanded in scope, the most likely candidates for addition to the Annex are dual-use chemicals which are produced in large commercial quantities for purposes not prohibited under the Convention. The addition of these chemicals to the Annex on Chemicals likely would increase the number of businesses affected by the Convention's verification regime, entailing additional reporting and data declarations from companies, and subjecting additional facilities to routine inspections.

Thus the implementing legislation is deliberately structured to ensure that a change in law will be required before any provision of the Verification Annex can be applied to any new chemical or biological substance added to the Annex on Chemicals. This will provide both the Congress and the American public sufficient opportunity to examine proposals by the executive branch to expand the CWC. Indeed, depending upon the extent to which the addition of a chemical (or other type of substance) is judged to substantively increase the scope of application of the CWC, such a change also might require the advice and consent of the Senate.

The American Forest and Paper Association specifically supported the requirement that ''additions or deletions from the list would only be permitted by legislative amendment, and not through the administrative regulatory process.''

Section 102. No Abridgement of Constitutional Rights. This section makes clear that the Federal Government may not force anyone to waive any Constitutional right as a condition for entering into a contract with the federal government or as a condition for receiving any other form of benefits from the government. This provision works in conjunction with Section 308, which amends The Office of Federal Procurement Policy Act. Many of the companies subject to the reporting and inspection requirements of the CWC work under contract to the federal government. Sections 102 and 308 protect these companies by prohibiting the government from imposing, as a condition of a contract, the requirement that they must agree to warrantless searches under the CWC or forego any other Constitutional right (such as the right to challenge the constitutionality of the CWC). The same protections apply to individuals receiving benefits from the United States.

Section 103. Civil Liability of the United States. Section 103 is necessary to address Fifth Amendment problems which arise with respect to the CWC. The Convention requires that the United States provide foreign inspectors with intrusive access into numerous U.S. businesses; this, together with the mandatory data declaration requirements, holds at risk trade secrets and critical proprietary information. For instance, the authority of inspectors to collect data and take samples for analysis may constitute a form of illegal seizure and the taking of private property without compensation. But the CWC contains no provisions to ensure just compensation to those whose property has been taken.

Proprietary information is often the basis for a chemical company's competitive edge. As a practical matter, a wide variety of things are considered proprietary or sensitive. For instance, the following are often considered to be ''trade secrets'': (1) the formula of a new drug or specialty chemical; (2) a synthetic route that requires the fewest steps or the cheapest raw materials; (3) the form, source, composition, and purity of raw materials or solvents; (4) a new catalyst that improves the selectivity, efficiency, or yield of a reaction; (5) the precise order and timing with which chemicals are fed into a reactor; (6) subtle changes in pressure or temperature at key steps in a process; (7) isolation methods that give the highest yields consistent with good recycling of solvents and reagents; (8) expansion and marketing plans; (9) raw materials and suppliers; (10) manufacturing cost data; (11) prices and sales figures; (12) names of technical personnel working on a particular project; and (13) customer lists.

The theft of any one of these items could result in a loss of revenue and investment that could damage a large company, and drive a small one out of business. Because some trade secrets are not all that complex, even simple visual inspection could reveal proprietary information of great value to a competitor. During routine inspections, for example, companies will run the risk that a skilled chemical engineer equipped with knowledge of the target facility and a list of specific questions to be answered will learn a great deal about that business' activities.

The Fifth Amendment provides that no private property shall ''be taken for public use without just compensation.'' As one noted constitutional scholar, Ronald Rotunda, warned the Foreign Relations Committee on March 31, 1997: ''If the federal government would simply take this property, the Constitution requires that it pay just compensation. If the federal government sets up a legal structure that allows international inspectors to make off with intellectual property, there is a 'taking' for purposes of the just compensation clause.''

The CWC, however, does not provide for just compensation in the event of misuse of treaty inspection rights. In the absence of a treaty-mandated remedy, the only means of guaranteeing Fifth Amendment protections is to hold the federal government liable for the legal structure it has created by ratifying the CWC. It is the federal government, after all, which approved a treaty giving foreign nationals access to U.S. facilities, thereby creating the potential for the taking of private property.

Section 103 provides U.S. companies and citizens with the right to bring a civil action for money damages against the United States for the actions of foreign inspectors and other OPCW employees (as well as U.S. government personnel) undertaken pursuant to, or under the color of the CWC or the implementing legislation. It precludes the federal government from raising sovereign immunity as a defense, and establishes a process whereby, once a prima facie case has been established that proprietary information has been divulged or taken, the burden to disprove the claim falls upon the United States. In so doing, Section 103 establishes a reasonable standard of evidence to be used in resolving this type of civil action, given the ambiguity that often surrounds suspicions of the theft of trade secrets.

Section 103 defers action on a civil claim for one year, providing a period of time for the United States to pursue diplomatic and other remedies to seek redress for the claim. However, once the claim moves forward, Section 103 establishes a clear policy and process by which the U.S. government shall pursue recoupment of all funds paid in satisfaction of any tort or taking for which the U.S. has been held liable. In particular, the United States will impose severe sanctions on all foreign entities (both governmental and private) involved in the theft of the trade secret in question. Sanctions against foreign governments can be waived by the President on a case-by-case basis, though sanctions against foreign persons are lifted only once the U.S. has received ''full and complete compensation.''

These provisions are designed to operate together with the requirements of Condition

16 of the resolution of ratification for the CWC. Pursuant to that condition, in the event that ''persuasive information'' becomes available indicating that a U.S. citizen has suffered financial losses or damages due to the unauthorized disclosure of confidential business information, the President is required to secure a waiver of immunity from jurisdiction for any foreign person responsible for financial losses or damages to a U.S. citizen, or to withhold half of the U.S. contribution to the OPCW until the situation has been resolved ''in a manner satisfactory to the United States person who has suffered the damages. . .''

Section 302. Facility Agreements. Section 302 prohibits the United States from concluding facility agreements which would prohibit U.S. businesses from withholding consent to an inspection request for any reason or no reason (thereby triggering a requirement for a search warrant under Section 305). It also ensures that representatives from U.S. companies may participate in preparations for the negotiation of a facility agreement, and may observe such negotiations to the maximum extent practicable.

Section 303. Authority to Conduct Inspections. In addition to providing the legal basis by which U.S. companies may be inspected by foreign personnel, Section 303 ensures that at least one special agent of the Federal Bureau of Investigation shall accompany each inspection conducted under the Convention. This ensures a minimum of protection against the possible theft of trade secrets for U.S. companies.

Section 303 also prohibits OSHA or EPA employees from escorting or otherwise accompanying inspection teams, and requires that the number of U.S. government personnel be kept to the minimum number necessary. The Administration asserted, in response to a question for the record before the Senate Select Committee on Intelligence, that the U.S. Government would be permitted ''to use information or materials obtained during inspections in regulatory, civil, or criminal proceedings conducted for the purpose of law enforcement, including those that are not directly related to enforcement of the CWC.'' This alarmed many companies.

The American Forest and Paper Association stated its support for Section 302(b)(2)(B), noting that ''[t]he treaty should not be used as an omnibus vehicle for regulatory inspections unrelated to its intended purpose. We believe that it would be inappropriate to include such government officials [from OSHA and EPA] on an international inspection team formed for the purposes set out in the CWC and would merely serve to detract from the intent of the inspection.''

By barring EPA and OSHA officials from participating in CWC inspections, Section 303 prevents the Administration from using the Convention to gain a degree of access to facilities which it otherwise is denied. As Professor Rotunda noted in his March 31, 1997, letter: ''Searches that violate the Fourth Amendment are not cured of the violation by the simple expedient of a treaty ratification or an executive agreement.''

Finally, Section 303 establishes a reasonable legal standard by which the President is expected to evaluate the risk posed by an individual inspector to the national security or economic well-being of the United States. The President has the right under the CWC to object to an individual serving as an inspector in the United States. Section 303 obligates him to give ''great weight to his reasonable belief that . . . the participation of such an individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.''

As has been noted, the CWC provides inspectors from foreign countries unprecedented access to U.S. facilities—both commercial and government-related. The risk that trade secrets or national security secrets could be stolen during an inspection is very high. In particular, because chemicals covered by the CWC are used in a variety of aerospace activities—from the manufacture of advanced composites and ceramics to additives for paints and fuels—dozens of defense contractors are targeted for routine inspections under the CWC. Thus a threat to proprietary information often also will constitute a threat to national security information.

Certainly a number of countries intend to use CWC inspections for commercial espionage. Several incidents of concern have already occurred in this respect. For this reason, the Senate adopted a common-sense approach to the standard of evidence required by the President in exercising the right of inspector refusal. A decision to apply a higher evidentiary standard than ''reasonable belief'' would be inconsistent with Section 303.

Section 304. Procedures for Inspections. Section 304 contains a number of critical protections for U.S. companies. First, Section 304 (b)(3)(B) requires that notification of a challenge inspection pursuant to Article IX of the Convention ''shall also include all appropriate evidence of reasons provided by the requesting state party to the Convention for seeking the inspection. The requirement for specific identification of the reasons for a challenge inspection will enable companies to formulate their own views on the extent to which ''probable cause'' exists for such an inspection. As the Committee's analysis of Sections 305 makes clear, the CWC does not require a foreign country to demonstrate ''probable cause'' when it initiates a challenge inspection of a commercial U.S. facility. For this reason, the Congress has adopted implementing legislation which specifically raises the question of the constitutionality of the CWC's challenge inspection regime and provides for expedited review by the courts (under Section 503). Many in the Senate expect the Supreme Court to rule against the constitutionality of the sweeping inspection rights under Article IX of the CWC.

Section 304(f) allows the U.S. company or person to be inspected to determine who shall take samples during an inspection. It also reiterates the requirement, imposed pursuant to the resolution of ratification of the CWC, that ''[n]o sample collected in the United States may be transferred for analysis to any laboratory outside the territory of the United States.'' This provision mirrors the Presidential certification requirement contained in Condition 18 of the resolution of ratification for the CWC.

The CWC explicitly affords an inspection team the right to take samples on-site and, pursuant to Part II paragraph (E)(55) of the Verification Annex, ''if it deems necessary, to transfer samples for analysis off-site at laboratories designated by the Organization.'' As Part II paragraph (E)(57) makes clear: ''when off-site analysis is to be performed, samples shall be analysed in at least two designated laboratories.''

In agreeing to both Condition 18 of the CWC's resolution of ratification and Section 304(f) of the implementing legislation, the Executive Branch acknowledged that the United States intends to field two OPCW-designated laboratories. Specifically, the Department of Defense intends to field a mobile laboratory which will be available to analyze samples taken in the United States. While sample residue left in the laboratory's equipment would preclude it from leaving U.S. territory, the lab is intended to serve as a counterpart to a second mobile laboratory operated by the OPCW (which could be deployed to countries unable to secure OPCW approval for a facility).

There is no treaty-requirement that analysis be done in laboratories operated by countries other than the one where a sample was taken. The United States may legally preclude the transfer of samples overseas while still meeting the CWC requirement that samples-analysis be conducted in two designated laboratories.

Some have argued that Section 304(f) sets a ''dreadful example'' prompting countries to deny foreign inspectors the ability to send chemical samples abroad for analysis at independent laboratories. Such arguments fail to recognize several key points. First, any country that succeeds in obtaining OPCW accreditation for two laboratories has the treaty-right to insist that samples be analyzed ''in country,'' regardless of U.S. policy.

Second, opponents of sampling limitations overstate the scientific capacity and technical capability of proliferant countries to secure OPCW approval for two laboratories. To date, the OPCW has not given approval to any lab in any country; certainly no country has secured approval for two. Indeed, only a handful of western European countries, and perhaps Russia and China, have the ability to field two approved laboratories. The former countries pose no proliferation concern, and both Russia and China are capable of completely concealing their chemical warfare program from international inspectors (making sampling irrelevant). Thus the argument that U.S. strictures on sampling transfers will undo the CWC's verification regime are unsupportable.

Third, those who criticize Section 304(f) overstate the value of sampling analysis to U.S. nonproliferation efforts. On March 1, 1989, then-Director of Central Intelligence, Judge William Webster, pointed out the ease with which chemical weapons production can be concealed: ''. . . within fewer than 24 hours, some say 8½ hours, it would be relatively easy for the Libyans to make the site [at Rabta] appear to be a pharmaceutical facility. All traces of chemical weapons production could be removed in that amount of time.'' Similarly, delays of just a few hours have undercut UNSCOM's efforts to prove Iraqi chemical and biological concealment activities.

In contrast, the CWC gives proliferant countries five days of advance warning to conceal their activities before a challenge inspection team must be allowed on-site. Very simple techniques, such as the production of pesticides on a line used to manufacture nerve agent (e.g. production of the pesticide methyl-parathion instead of the nerve agent sarin), will reduce or eliminate the utility of sampling analysis.

Fourth, the over-focus on analysis to be done by ''independent'' laboratories ignores UNSCOM's experience with Iraq's VX program. In the case of samples taken from warheads believed to be weaponized with VX, ''independent'' laboratories in France, Switzerland, and the United States have given contradictory and inconsistent analyses. This has only complicated U.S. efforts to prove to the international community that Saddam Hussein's nerve agent program is far more advanced than admitted by Iraq. This has occurred despite UNSCOM's relatively unfettered ability—at least in comparison with the CWC—to take samples when and where it pleases. Because the CWC's timeframes provide cheating nations with ample opportunity to mask chemical warfare signatures, analysis of samples at foreign laboratories is guaranteed to make U.S. efforts to prove noncompliance harder, not easier. This

will be the case regardless of whether sampling analysis is done ''in-country.''

Fifth, in addition to overselling the value of sampling analysis to the CWC's verification regime, opponents of Section 304(f) persist in ignoring the threat that such procedures pose to legitimate commercial activities. A loss of proprietary information through sample analysis would bankrupt many chemical, pharmaceutical, and biotechnology industries. Moreover, chemical formulas, which are the type of proprietary information put at greatest risk by sampling, often are not patented. This is done to preserve competitive advantage and to prevent disclosure pursuant to Freedom of Information Act (FOIA) requests. But the lack of a patent also will make it harder for U.S. companies to prove that a trade secret has been stolen.

The Congressional Office of Technology Assessment estimated in August, 1993, that the U.S. chemical industry loses approximately $3–6 billion per year in counterfeited chemicals and chemical products. A U.S. pharmaceutical firm spends on average about $350 million to research and develop a new compound. Clearly, while it is difficult to assess the potential dollar losses associated with the CWC, information gleaned from sampling analysis could be worth millions of dollars to foreign competitors. Equally troubling is the fact that the CWC does not require the return of samples to the country from which they were taken, but instead gives the Technical Secretariat of the OPCW responsibility over final disposition. This further increases the possibility that proprietary information contained in the sample will be compromised.

As Kathleen Bailey, then-Senior Fellow at Lawrence Livermore Laboratories, warned in testimony before the Foreign Relations Committee: ''Experts in my laboratory recently conducted experiments to determine whether or not there would be a remainder inside of the equipment that is used for sample analysis on-site. They found out that, indeed, there is residue remaining. And if the equipment were taken off-site, off of the Lawrence Livermore Laboratory site, or off of the site of a biotechnology firm, for example, and further analysis were done on those residues, you would be able to get classified and/or proprietary information.''

Numerous other distinguished witnesses expressed concern regarding the threat to trade secrets posed by the CWC's intrusiveness, including Donald Rumsfeld, former Secretary of Defense and President and former Chairman and CEO of G.D. Searle and Company; James Schlesinger, former Secretary of Defense and former Director of Central Intelligence; Lieutenant General William Odom, former Director of the National Security Agency; Lieutenant General James Williams, former Director of the Defense Intelligence Agency; Edward J. O'Malley, former Assistant Director of Federal Bureau of Investigation, Chief of Counterintelligence; and Bruce Merrifield, former Assistant Secretary of Commerce for Technology. It was on the basis of the testimony of these individuals, and the concerns expressed by numerous companies and industries (ranging from members of the Chemical Manufacturers Association and the Aerospace Industries Association to other types of companies such as the one that manufactures special ink for the dollar bill) that the Congress chose to prohibit the transfer of samples overseas for analysis.

Section 305. Warrants. Section 305 builds upon Condition 28 of the resolution of ratification for the CWC, which required the President to certify to Congress that, for any challenge inspection where consent has been withheld, the United States ''will first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized. . . .'' Further, the President certified pursuant to Condition 28 that an administrative search warrant issued by a United States magistrate judge would be required for involuntary routine inspections.

Accordingly, Section 305 requires Administrative search warrants for routine inspections where consent has been withheld. It limits routine inspections to no more than one per year per plant site. Additionally, for Schedule 3 facilities and sites working with discrete organic chemicals, Section 305 requires the federal government to affirm in an affadavit, prior to obtaining an administrative search warrant, that a given routine inspection: (1) ''will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;'' and (2) the facility to be inspected was selected randomly by the Technical Secretariat, taking into account equitable geographic distribution of inspections and other relevant information relating to the site in question. Finally, Section 305 requires that the federal government stipulate in its affadavit that the routine inspection will not exceed the time limits specified in the Convention unless the owner, operator, or agent in charge of the plant agrees.

Section 305 requires criminal search warrants for any challenge inspection where consent has been withheld. In seeking the warrant, the federal government is required to provide to the judge of the United States all appropriate evidence or reasons showing probable cause to believe that a violation of the implementing legislation (and thus the treaty) is occurring.

In the event that a frivolous challenge inspection is initiated against the United States, perhaps in retribution for a U.S.-initiated inspection, the federal government may prove unable to provide sufficient probable cause to obtain a criminal search warrant. Under the CWC, a country wishing to initiate a challenge inspection is not required to provide any supporting evidence. The request for an inspection simply is made; unless 31 of 41 members of the Executive Council of the OPCW vote against it proceeding within 12 hours of such a request, the challenge inspection will move forward. Thus the ''screen'' against frivolous or abusive inspections is of a political, rather than evidentiary, nature. Moreover, review under the CWC of whether the challenge inspection request was within the scope of the CWC, or whether the right to request a challenge inspection had been abused, is allowed only retroactively (following conclusion of the inspection). Therefore nothing in the Convention prevents a challenge inspection from being initiated against a U.S. company without ''probable cause'' having been demonstrated.

As will be discussed in connection with Section 503, the courts will ultimately serve as the final arbiter over questions of the CWC's constitutionality.

Section 307. National Security Exception. Section 307 allows the President to deny any inspection request that ''may pose a threat to the national security interests of the United States.'' This simple provision is designed to protect the United States from frivolous inspections.

A recent Stimson Center report makes the claim that ''[t]he national security exception negates the treaty obligation to accept a challenge inspection at any U.S. location.'' This statement incorrectly asserts that the United States has such an obligation. Condition 28 of the resolution of ratification clearly established that the United States will not agree to a broad treaty obligation to accept a challenge inspection at any U.S. location. Rather, the United States will agree to inspections under Article IX of the CWC only in those cases where either consent to an inspection has been given, or probable cause has been demonstrated and a criminal search warrant obtained. Under any other circumstances, no access will be given.

Thus the argument made against Section 307 is flawed on its face. Moreover, the CWC explicitly gives the United States the right, for instance, under paragraph 41 of Part X of the Verification Annex, to ''take such measures as are necessary to protect national security.'' Indeed, as paragraph 38 makes clear, access to sensitive facilities must be negotiated between the inspection team and the inspected State Party; moreover, the inspection team is obligated to use of the least intrusive procedures possible. Under paragraph 42, should the United States provide ''less than full access to places, activities, or information'' the United States incurs the obligation to ''make every reasonable effort to provide alternative means to clarify the possible non-compliance concern that generated the challenge inspection.''

Section 307 clarifies the fact that the President has the right, both under the Constitution and pursuant to the treaty, to deny a potentially-damaging inspection. However, the exercise of such a denial must be made ''consistent with the objective of eliminating chemical weapons.'' Thus the President is obligated to provide alternative means of clarifying non-compliance concerns, and must consider the implications of a denial for the operation of the CWC, and for U.S. nonproliferation efforts. The national security interests of the United States, however, must remain paramount.

Section 402. Prohibition Relating to Low Concentrations of Schedule 2 and Schedule 3 Chemicals. The CWC does not define the term ''low concentration'' as it relates to Schedule 2 and Schedule 3 chemicals. Section 402 establishes the intent of the United States to interpret this term to mean a 10 percent concentration of a Schedule 2 chemical and an 80 percent concentration of a Schedule 3 chemical (measured either by volume or total weight, whichever yields the lesser percent). In setting the percentages at these levels, Section 402 ensures that Schedule 2 chemicals, which are of direct concern for chemical weapons production, are captured in low concentrations. It also recognizes the broad range of commercial uses for Schedule 3 chemicals, and reduces the regulatory impact of the CWC on many industries.

No chemical is placed on Schedule 2 of the CWC unless it meets specific criteria: (1) it must be lethal enough that it could be used as a chemical weapon by itself; (2) it can serve as a precursor in the final stage of the manufacture of a chemical weapon, or otherwise is important to the production of a chemical weapon; and (3) is not produced ''in large commercial quantities.'' Obviously, such chemicals should be tightly controlled even at relatively dilute levels.

Schedule 3, on the other hand, contains seventeen chemicals which are produced in large commercial quantities for use in production of various organic chemicals and agricultural products. Additionally, these chemicals are used to make gasoline additives, pharmaceuticals, detergents, flame retardant materials, and dyestuffs, among other things. There are 17 compounds on Schedule 3.

Schedule 3A (4), Chloropicrin, has important uses for the disinfection of cereals and grains, considerably increasing the potential storage life. It is also used as a soil insecticide to sterilize the soil before the planting of crops that are very sensitive to weed competition.

Schedule 3B (5), Phosphorous oxychloride, is used as an insecticide, as a chlorinating agent, flame retardant, gasoline additive, hydraulic fluid, organic synthesis, plasticizer, and as dopant for semiconductors.

Phosphorous trichloride, Schedule 3B (6), is used in dyestuffs, surfactants, plasticizers, gasoline additives, insecticides, and in organic synthesis.

Phosphorous pentachloride, Schedule 3B (7), is used as a pesticide, in plastics, and in organic synthesis.

Trimethyl phosphite, Schedule 3B (8), is used in insecticides, organic synthesis, veterinary drugs.

Triethyl phosphite, Schedule 3B (9), is used in insecticide synthesis, as a lubricant additive, in organic synthesis, and as a plasticizer.

Schedule 3B (10), Dimethyl phosphite, is used in insecticide production, as a lubricant additive, in organic synthesis, and as a veterinary drug.

Diethyl phosphite (Schedule 3B (11)) is used in the production of insecticides, as a gasoline additive, as a paint solvent, in the synthesis of pharmaceuticals, and in organic synthesis.

Sulfur monochloride (Schedule 3B (12)) is used extensively as an intermediate and chlorinating agent in the production of dyes and insecticides. It is also used for cold vulcanisation of rubber, in the treatment of vegetable oils and for hardening soft woods, in pharmaceuticals, organic synthesis, as a polymerization catalyst, and in the extraction of gold from ores.

Thionyl Chloride, Schedule 3B (14), is used in batteries, engineering plastics, pesticides, as a catalyst, surfactant, chlorinating agent, and in organic synthesis of herbicides, drugs, vitamins, and dyestuffs. Common agricultural products involving this chemical are: Fenvalerate, Endosulfan, Methidathion, Flucythrinate, Fluvalinate, Lethane, Diphenamit, Napromaide, Propamide, Tridiphane, Topan, and Pipertain.

Schedule 3B (17), Triethanolamine, is another chemical with a widespread use. Because of its surface active properties it is added to waxes and polishes and is used as a solvent for herbicides, shellac and various dyes. It is also used for producing emulsions of various oils, paraffins and waxes, as well as for breaking up emulsion. It is an important ingredient of the cutting oil used for metal shaping. Further uses include in detergents, cosmetics, corrosion inhibitors, as a plasticizer, rubber accelerator, and in organic synthesis.

As can be seen from this partial listing, the majority of these chemicals are used in agriculture, the automobile industry, and pharmaceuticals production. The vast majority are used as herbicides or insecticides/pesticides. A decision to lower the percentage associated with ''low concentrations'' of Schedule 3 chemicals would dramatically increase the number of agricultural companies and facilities subject to the CWC's onerous reporting and inspection requirements. The costs resulting from such a dramatic expansion of the CWC's scope would invariably be passed by such companies to the one consumer who can least afford an increase in operating costs at this time—the U.S. farmer.

Section 403. Prohibition Relating to Unscheduled Discrete Organic Chemicals and Coincidental Byproducts in Waste Streams. Section 403 exempts from reporting and inspection any ''unscheduled discrete organic chemical'' that is a ''coincidental byproduct . . . that is not isolated or captured for use or sale . . . and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.''

The CWC does not list unscheduled discrete organic chemicals. Instead, it generally defines these substances as: ''any chemical belonging to the class of chemical compounds consisting of all compounds of carbon except for its oxides, sulfides and metal carbonates, identifiable by chemical name, by structural formula, if known, and by Chemical Abstracts Service registry number if assigned.'' This definition captures thousands of chemical compounds—so many that it is impossible to list them. The CWC's sweeping definition of a ''discrete organic chemical'' captures thousands of U.S. companies under its reporting and inspection obligations.

However, that number would expand exponentially without Section 403's exclusion of discrete organic chemicals which form as a byproduct in a variety of manufacturing processes. The declaration and inspections costs under the CWC would fall on a far broader number of U.S. companies. Moreover, the costs of compliance for these additional companies will be far greater. Companies must declare the aggregate tonnage of discrete organic chemicals produced. If ''production'' is defined as the formation of coincidental byproducts in a waste stream, however, many companies would find it costly, and perhaps impossible, to comply with the treaty.

The paper industry, in particular, has expressed concern over the ''discrete organic chemical category,'' warning that various chemicals such as methanol, phenol, methyl ethyl ketone, and methyl mercaptan are formed in the process of paper manufacturing. The American Forest and Paper Association warned on May 25, 1994, that ''pulp digester gases containing methanol are vented, and some methanol will also be lost as fugitive air emissions from the wastewater treatment system. Methanol is only one component of these streams; it is not isolated or captured for use or sale.''

Without Section 403, numerous industries are at risk of being required to measure and report on countless chemical interactions in waste streams, and to undergo international inspection to verify the accuracy of their data. On May 21, 1997, the American Forest and Paper Association reiterated its concern over the broad scope of the CWC and stated its support for Section 403: ''We strongly support the prohibition of requirements under the treaty for chemical byproducts that are coincidently manufactured. Due to the broad nature of the category of 'discrete organic chemicals,' as defined by the treaty, it is critical to recognize that inclusion of coincidental byproducts of manufacturing processes that are not captured or isolated for use or sale would exceed the stated purpose of the CWC.''

Section 503. Expedited Judicial Review. Section 503 allows for U.S. citizens to challenge the constitutionality of any provision of the implementing legislation (and, therefore, the CWC). Such a challenge must be given priority in its disposition, and a prompt hearing by a full Court of Appeals sitting en banc must be given to a final order entered by a district court.

In reviewing the constitutionality of legislation, the courts often assume that Congress has exercised its independent judgment and that the legislation in question is constitutional. However, as the legislative history of the CWC makes clear, Congress expressed numerous misgivings about the constitutionality of the CWC (and thus about the implementing legislation required). These concerns were articulated in hearings before the Committees on Foreign Relations and Judiciary, and in correspondence between the Senate, Executive Branch, and U.S. businesses. As has been noted elsewhere, the Senate expressed some specific concerns over the constitutionality of the CWC as conditions in the resolution of ratification. The resolution also included Condition 12, which makes clear that nothing in the CWC authorizes or requires legislation, or any other action prohibited by the Constitution of the United States, as interpreted by the United States.

Many in the Congress are convinced that the Chemical Weapons Convention is incompatible with the Fourth and Fifth Amendment rights of Americans. It therefore is expected that the courts will hold that some, or all, of the CWC and its implementing legislation is unconstitutional and issue the appropriate injunctions.●

AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Mr. ABRAHAM. Mr. President, as part of the omnibus appropriations bill the Senate today will pass the ''American Competitiveness and Workforce Improvement Act.'' This legislation represents a bipartisan compromise resulting from tough negotiations between the House and the Senate, and between Congress and the White House. The bill will be included in this form rather than being adopted freestanding because of a last minute objection from Senator HARKIN that has prevented it from being brought to the floor on its own. Given the 78 to 20 vote for the American Competitiveness Act prior to the agreement with the White House, and the 288 to 133 vote in the bill's favor just a few weeks ago in the House of Representatives, it is clear the legislation would have passed with overwhelming support in the Senate had it been permitted to come to a separate vote.

I believe that the passage of the American Competitiveness and Workforce Improvement Act today is a great victory for American workers and for the businesses that employ them.

This legislation will protect the competitiveness of American business in the global marketplace and improve economic and career opportunities for American citizens.

Let me start by describing the history of this legislation. This past February, the Senate Judiciary Committee held a hearing at my request to examine high technology labor market needs. We heard from leaders at America's top high technology firms that they simply could not find enough qualified professionals to fill the jobs they needed filled. They also emphasized that many of the individuals they hired on H–1B temporary visas not only filled important jobs, but also typically created jobs for many Americans through their skills and innovations.

At that time, the 65,000 cap on H–1B visas was projected to be reached as early as June. Instead, it was reached the first week of May.

In March, I introduced S. 1723, the American Competitiveness Act, to increase the cap on H–1B visas for foreign born professionals. In April, that bill passed the Senate Judiciary Committee on a 12 to 6 bipartisan vote. Then in May, the bill passed on a 78 to 20 vote of the full Senate.

Some time after that, the House Judiciary Committee passed out an H–1B

visa bill as well. However, many who supported the increase in principle found that the House version included so many conditions on the use of H–1B visas that they would have more than negated the benefits of raising the cap. Negotiations ensued between the House and Senate over these provisions, brokered by the leadership of both chambers. The hope was to find a compromise.

In the end, a compromise was reached that retained the core features of the Senate bill but also found common ground with the House by focusing increased attention and requirements on employers, more than 15% of whose workforce are in this country on H–1B visas. The compromise also imposed a fee to be paid by the employer on each visa, the proceeds of which would be used for job training and scholarships.

On account of this last provision, the compromise bill was required to originate in the House. Accordingly, it was incorporated into a proposed amendment, whose text was worked out by me and by House Immigration Subcommittee Chairman SMITH—a proposed amendment which Chairman SMITH was going to offer as a substitute to H.R. 3736, the bill that had passed out of House Judiciary.

As the House was preparing to take that bill up before the August recess, however, the White House issued a public veto threat and listed 15 changes it was seeking to the bill. At that point, I was deputized to attempt to negotiate the remaining issues with the Administration, in consultation with Chairman SMITH and the House and Senate leadership.

After several weeks of negotiations, we reached agreement at 7:00 p.m. on September 23. We and the Administration were able to reach an accommodation on most of the points it had raised. The Administration withdrew the remaining two points, points 6 and 7, that in our view could not be accommodated within the existing structure of the bill and the H–1B program. We instead agreed on a different approach with regard to the concerns underlying these two points, one that focused instead on clarifying current program requirements and toughening sanctions for willful violations of these requirements.

Because the bill was scheduled to be taken up on the House floor the following day, the results of the agreement had to be quickly incorporated into a new substitute amendment to H.R. 3736. The substitute had to be filed by Chairman SMITH that evening before the House went out at 8:30 p.m. so that it could be printed in the CONGRESSIONAL RECORD and be made available for Members to review the following morning. We met this deadline, the amendment was filed, and on September 24 the amendment was adopted and the bill passed by the House with the support of a majority of both the Republican and Democratic caucuses. That bill, with some technical corrections necessitated by a few omissions that resulted from the tight deadline under which the original version was produced, is now incorporated into Title IV of Division C of the Omnibus Appropriations Bill, titled The American Competitiveness and Workforce Improvement Act.

Let me now turn to the reasons why I believe this bill remains needed and indeed timely. Mr. President, throughout this session of Congress I have come to the floor repeatedly to urge that we address the growing shortage of skilled workers for certain positions in our high technology sector. I have done this because I believe that the continued competitiveness of our high-tech sector is crucial for our economic well being as a nation, and for increased economic opportunity for American workers.

The importance of high-tech for our economy is beyond doubt. The importance of high-tech for our economy is beyond doubt. According to the Department of Commerce's Bureau of Economic Analysis, high technology companies contributed over one-quarter of America's real economic growth between 1992 and 1997. Moreover, the declining prices of computers, software, and semiconductors have made a substantial contribution to our nation's low level of inflation, thereby improving the standard of living enjoyed by millions of Americans. Without IT industries to keep prices down, according to the Bureau of Economic Analysis, the inflation rate would have been much higher in 1997—3.1 percent versus the actual level of only 2.0.

But high technology firms are experiencing serious worker shortages. A study conducted by Virginia Tech estimates that right now we have more than 340,000 unfilled positions for highly skilled information technology workers. And, while Department of Labor figures project our economy will produce more than 1.3 million information technology jobs over the next 10 years, estimates are that our universities will not produce nearly that number of graduates in related fields. And this is not only what academic studies are telling us. Firms across the nation and across my home State of Michigan have been clamoring for people to fill these skilled positions.

Of course, this issue is not only about shortages, it is about opportunities for innovation and expansion, since people with valuable skills, whatever their national origin, will always benefit our nation by creating more jobs for everyone.

Mr. President, we want and need American companies to keep and expand major operations in this country. We do not want to see American jobs go overseas. But, if they are to keep their major operations in the United States, firms must find workers here who have the skills needed to fill important positions in their companies.

To make that happen in the long term, we must do more as a nation to encourage our young people to choose high technology fields for study and for their careers. In the long run this is the only way we can stay competitive and protect American jobs.

Through scholarships and job training, the American Competitiveness and Workforce Improvement Act will help us achieve this goal. It will provide money and training to low income students who choose to study subjects, including math, computer science and engineering, that are important to our high-tech economy. In this way the American Competitiveness and Workforce Improvement Act will help bridge the gap between current job skills and the requirements of high paying, important positions in our economy.

However, over the short term, until we are producing more qualified high technology graduates, we must also take other steps to bridge the gap between high technology needs and high technology skills.

We currently allow companies to hire a limited number of highly skilled foreign born professionals to fill essential roles. To do this they must go through a fairly onerous process to get one of the 65,000 ''H–1B'' temporary worker visas allotted by the INS. Unfortunately, last year our companies hit the 65,000 annual limit at the end of August. This year that limit was hit in May.

This bill, in addition to providing significant incentives for Americans to enter the high technology sector, will temporarily raise the number of H–1B visas available for the next three years. These additional visas will enable companies to find the workers they need to keep facilities and jobs in the United States, and keep our high-tech industry competitive in the global marketplace.

The legislation also includes a number of provisions ensuring that companies will not replace American workers with foreign born professionals, including increased penalties and oversight, as well as measures eliminating any economic incentive to hire a foreign born worker if there is an American available with the skills needed to fill the position.

I would like to thank the members of my staff who worked long hours negotiating this compromise. I would also especially like to express my personal gratitude to my colleagues for their support for this important legislation. I would like to thank in particular Majority Leader LOTT, Senator HATCH, Senator MCCAIN, Senator GRAMM, Senator GORTON, Senator LIEBERMAN, and Senator GRAHAM, as well as the many cosponsors of the bill, for their crucial support at key moments in this process. I am also grateful to Senator KOHL and Senator FEINSTEIN for their support for this legislation in Committee. Finally, I would like to thank the Subcommittee's Ranking Member, Senator KENNEDY, for the cooperation he showed in moving forward this piece of legislation despite disagreement with some aspects of the bill's content.

In the House, I would like to extend special thanks to Speaker GINGRICH, Majority Leader ARMEY, and Chairman SMITH for helping to reach a compromise that has achieved a true consensus on this issue. Representatives DAVID DREIER, JIM ROGAN and DAVID MCINTOSH also provided leadership and help at significant junctures in this process and I am also grateful for their important efforts.

Because much of this legislation was developed after the conclusion of the regular Committee process, I have also prepared an explanatory document that performs the function commonly performed by the Committee Report of describing the legislation and the purpose and interrelationship of its various provisions in detail. I ask unanimous consent that this document be printed in the RECORD, along with a few pages of other materials to which the document makes reference.

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

THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998

SECTION 401. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT

This section specifies the short title, the ''American Competitiveness and Workforce Improvement Act of 1998,'' the table of contents for the legislation, and the rule that unless otherwise specified, the legislation amends the Immigration and Nationality Act.

Subtitle A

Subtitle A contains the changes the legislation is making to current law regarding H–1B visas.

SECTION 411. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H–1B PROGRAM

This section specifies the new ceilings for these visas: 115,000 in FY 1999 and 2000, 107,500 in FY 2001, and 65,000 thereafter.

SECTION 412. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS IN CASE OF H–1B DEPENDENT EMPLOYERS

This section adds new statements that must be included on certain H–1B applications and other provisions relating to these new statements and related aspects of the H–1B program.

Subsection 412(a) amends section 212(n)(1) of the Immigration and Nationality Act to add three new statements and provisions relating to these statements that must be included on applications for H–1B visas filed by certain employers on behalf of certain H–1B nonimmigrants. Subsection 412(b) contains various definitions relating to the new statement requirements. Given the close nexus between these two subsections, they are discussed here together, so as to allow the discussion of the substantive provisions to be illuminated by the discussion of the definitions.

1. The ''non-displacement'' attestation. Subsection (a)(1) first adds a new ''non-displacement'' attestation by amending section 212(n)(1) of the Immigration and Nationality Act to add a new subparagraph (E)(i). This provision requires a covered employer to state that its hiring of the H–1B worker is not displacing a U.S. worker. The term ''displace'' is defined in new subparagraph (4)(B) of section 212(n), added by section 412(b) of this legislation. That paragraph states that an employer ''displaces'' a U.S. worker to hire the H–1B if it lays off a U.S. worker with substantially the same qualifications and experience who was doing essentially the same job the H–1B worker is being brought in to do. This is a slight change from a similar definition used in a related context in an earlier version of this legislation passed by the Senate, which imposed heightened penalties for a willful violation of the prevailing wage attestation where the employer had ''replace[d]'' the U.S. worker with an H–1B nonimmigrant. In that context S. 1723 defined ''replace'' as employment of the H–1B nonimmigrant ''at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.''

The current definition defines ''displace'' as employment of the nonimmigrant in a job ''that is essentially the equivalent of the job'' from which the U.S. worker has been laid off. The reason for the change from the original Senate language is that it was thought desirable to include within the scope of this prohibition situations where an employer sought to evade this prohibition by laying off a U.S. worker, making a trivial change in the job responsibilities, and then hiring the H–1B worker for a ''different'' job. This language is designed to be broad enough to cover those situations as well. For similar reasons, especially given the nature of the jobs in question, the geographical reach of the prohibition was extended so as potentially to cover other worksites within normal commuting distance of the worksite where the H–1B is employed. This was to cover the eventuality that an employer might try to evade this prohibition by laying off a U.S. worker, hiring an H–1B worker to do that person's job, but assigning the H–1B worker to a different worksite very close by in order to conceal what was going on.

At the same time, however, the final version of this language is significantly narrower than the original language proposed by the House, which sought to prohibit not only one-to-one replacements of laid off U.S. workers with H–1Bs, but the hiring of any H–1B with similar qualifications to those of any recently laid off U.S. worker. As a result, the original definition of ''displace'' in the House did not contain the key phrase ''from a job that is essentially the equivalent of the job for which the [H–1B worker] is being sought.'' That phrase was added to make clear that this provision is not intended to be a generalized prohibition on layoffs by covered employers seeking to bring in covered H–1Bs, but rather a prohibition on a covered employer's replacing a particular laid-off U.S. worker with a particular covered H–1B.

It should be noted that the language used here is deliberately different from that used in H.R. 2759, another piece of legislation that we may pass today. That legislation authorizes aliens to come in on temporary visas as nurses under certain circumstances. In order to bring an alien in on such a visa, a facility must attest that it has not laid off another registered nurse within the ninety days preceding or following the filing of the visa petition. That language was chosen there instead of the language used here because in that instance the sponsors of that legislation were interested in doing more than preventing the replacement of a particular U.S. nurse with a nurse holding such a visa. Rather in that instance the desire was to prevent the use of the visas by a facility that had laid off any registered nurses within the relevant time period. Hence the sponsors deliberately rejected the language used here forbidding only one-for-one displacement in favor of broader language.

The language in the final version of this bill does allow the Department of Labor to pursue instances where an employer has in fact laid off a U.S. worker and hired an H–1B worker to do the U.S. worker's job, but is attempting to conceal that fact with a slight change in job responsibilities or by placing the H–1B worker at a different worksite. It is not, however, intended to go beyond that. Hence, it does not empower the Department of Labor to find a violation of this clause unless an H–1B worker is being brought in to replace a particular laid-off U.S. worker and do that particular U.S. worker's job. It should also be noted that under new paragraph (E)(i), in order to qualify, the displacement has to have occurred within 90 days before or after filing the H–1B petition. This was viewed as the outer limit for how long an employer might leave open a job previously held by a U.S. worker whom the employer intended to replace with an H–1B worker, or how long the employer might retain the U.S. worker while also hiring the H–1B worker. In most instances, to constitute a genuine instance of replacement, the layoff and hiring would be expected to occur closer in time.

Finally, the definition of ''lays off'' set out in new subparagraph (3)(D) of 212(n) (added by section 412(b) of this legislation) hews closely to the language contained in the original Senate version of this legislation, with two minor changes. First, while continuing to exclude the expiration of a temporary employment contract from the definition, the final version clarifies that the expiration of such a contract will be treated as a layoff if an employer enters into such a contract with the specific intent of evading the anti-displacement attestations contained in new paragraphs (E) and (F) of subsection 212(n)(1). Second, the final version notes that its definition of layoff is not intended to supersede the rights employees may have under collective bargaining agreements or other employment contracts. By the same token, of course, the fact that an employee may have protection under a collective bargaining agreement or other employment contract against some of the grounds for termination listed as exceptions to the definition of ''lays off'' in this legislation has no consequence for purposes of determining whether an employer has violated the displacement attestation. Rather, the employee's remedies for breach of the agreement or contract remain as they were under the agreement, contract, and pre-existing law, and are neither expanded nor contracted by 212(n)(3)(D). In other words, whether a layoff does or does not violate such an agreement has no bearing on whether it is within or outside the definition set out in 212(n)(3)(D) (and hence has no bearing on whether it is actionable by the Secretary of Labor under her authorities to enforce the ''no displacement'' attestation). Conversely, the fact that a layoff is outside the definition set out in 212(n)(3)(D) has no bearing on whether it violates a collective bargaining agreement or other employment contract and hence on whether it is actionable by the employee using the remedies available under other laws for such violations.

In determining whether or not a U.S. worker has been offered a ''similar employment opportunity'' as an alternative to loss of employment, and hence has not been laid off, it is the intent of Congress that the determination of similarity take into account factors such as level of authority and responsibility to the previous job, level within the overall organization, and other similar factors, but that it not include the location of the job opportunity.

If an employer asserts that it should not be held liable for a violation of the displacement attestation because a U.S. worker lost

his or her employment as the basis for an employee's loss of employment one of the listed exceptions, it is Congress's expectation that if the Secretary disputes that, she would have the burden of disproving the employer's assertion.

2. The ''secondary non-displacement'' attestation. Section 412(a) next adds a ''secondary non-displacement'' attestation by amending section 212(n)(1) of the Immigration and Nationality Act to include a new subparagraph (F). This attestation requires a covered employer to pledge to make certain inquiries before placing a covered H–1B worker with any other employer where the H–1B worker would essentially be functioning as an employee of the other employer. The requirement that there be ''indicia of employment'' between the employer with whom the covered employer is placing the covered H–1B worker and the H–1B worker is intended to operate similarly to the provisions in the Internal Revenue Code in determining whether or not an individual is an employee.

In particular, the covered employer must promise to inquire whether the other employer will be using the H–1B worker to displace a U.S. worker whom the other employer had laid off or intends to lay off within 90 days of the placement of the H–1B worker. The covered employer must also state that it has no knowledge that the other employer has done so or intends to do so.

Making the required inquiries will not insulate a covered employer from liability should the secondary employer with which the covered employer is placing the covered H–1B worker turn out to have displaced a U.S. worker from the job that it has contracted with the covered employer to have the H–1B worker fill. That is why subsection 412(a)(2) of this legislation adds a new requirement to section 212(n)(1) that the application contain a clear statement regarding the scope of a covered employer's liability with respect to a layoff by a secondary employer with whom the covered employer places a covered H–1B worker. If the covered employer does make the required inquiries and obtains no information that would lead it to believe that the secondary employer has used the H–1B worker to displace a U.S. worker, however, that should weigh heavily in favor of the covered employer's not having knowledge or reason to know of the secondary employer's actions for purposes of the penalty provisions associated with this attestation specified in new subparagraph (E) of section 212(n)(2) (added by section 413(c)).

This provision uses the same definitions of ''displace,'' ''lays off,'' and other definitions as those used by the primary non-displacement attestation.

3. The ''recruitment'' attestation. The last new required statement added by section 412(a) is the ''recruitment'' attestation, to be set out in new subparagraph (G) of section 212(n)(1). It requires a covered employer to state that it has taken good faith steps to recruit U.S. workers for the job for which it is seeking the H–1B worker, and has offered the job to any equally or better qualified U.S. worker.

This provision allows employers to use normal recruiting practices standard to similar employers in their industry in the United States; it is not meant to require employers to comply with any specific recruiting regimen or practice or to confer any authority on DOL to establish such regimens by regulation or guideline. Further, it is the intent of Congress that this provision not require an employer to set aside its normal standards for selection and recruitment of employees, including, but not limited to, legitimate objective criteria and legitimate subjective criteria such as past job performance, attitude, personal presentation or others, as long as the employer does not intentionally discriminate against any applicant based on that applicant's immigration status, citizenship status, or country of nationality in the course of applying these criteria.

This intention is further spelled out in section 412(a)(3) of this legislation. That section adds language at the end of section 212(n)(1) that states explicitly that the recruitment attestation is not to be construed to preclude an employer from using ''legitimate selection criteria relevant to the job that are normal or customary to the type of job involved.'' The purpose of this language is to make clear that an employer may use ordinary selection criteria in evaluating the relative qualifications of an H–1B worker and a U.S. worker. It is intended to emphasize that the obligation to hire a U.S. worker who is ''equally or better qualified'' is not intended to substitute someone else's judgment for the employer's regarding the employer's hiring needs. Rather, the employer remains free to use ordinary hiring criteria, whether subjective or objective, in deciding who in the employer's view is the right person for the job. Moreover, its judgment as to what qualifications are relevant to a particular job is entitled to very significant deference.

At the same time, this rule of construction is intended to insure that U.S. workers are given a fair chance at any job, rather than being turned down as a result of prejudice a particular employer may have against U.S. workers. It is not intended to allow an employer to impose spurious hiring criteria with the intent of discriminating against U.S. applicants in favor of H–1Bs and thereby subvert employer obligations to hire an equally or better qualified U.S. worker.

The provision is, however, intended to insure that a properly deferential and latitudinous understanding of the notion of relevant qualifications is used in interpreting these provisions. In that regard, it is emphatically not Congress's intention to invite the kind of elaborate scrutiny of selection criteria and the accompanying ''validation'' machinery that has developed under ''disparate impact'' analysis of such criteria under Executive Order 11246 and Title VII of the Civil Rights Act of 1964. Given the absence of any kind of record that employers use hiring criteria as a covert mechanism for preferring non-U.S. workers, such an analysis would make no sense in this context. That is why the bill deliberately avoids terms like ''job-related,'' ''related to the job'', or the ''use'' of selection criteria to discriminate.

Rather, what is intended is a common-sensical approach, under which an employer does not have to prove that ordinary selection criteria such as class rank, a degree from a superior school, people skills, recommendations from former employers, or qualities such as dependability are a legitimate basis on which to prefer one applicant over another. Likewise, the employer need not prove that a particular qualification or skill that it is looking for and that in a common-sense world would obviously be relevant, helpful, or useful to doing a job is necessary or indispensable in order to be able to consider that qualification or skill in its selection decisions. Additionally, business reasons such as the relative salary demands of competing candidates may also legitimately be considered, although only, of course, to the extent consistent with the employer's obligation under section 212(n)(1)(A) to pay the higher of prevailing or actual wage. For similar reasons, the intent is not to require employers to retain extensive documentation in order to be able retroactively to justify recruitment and hiring decisions, provided that the employer can give an articulable reason for the decisions that it actually made.

4. Employers and H–1B workers covered by the new statements. Section 412(a) of this legislation adds a new subparagraph (E)(ii) to section 212(n)(1) which specifies which employers have to include the new statements on their applications. There are two categories of covered employers: (1) ''H–1B dependent'' employers and (2) employers who, after enactment of the Act, have been found to have committed a willful failure to meet a condition set out in section 212(n)(1) or a willful misrepresentation of material fact on a labor condition attestation.

The first category, ''H–1B dependent'' employers, is defined in new paragraph (3)(A) of section 212(n), added by section 412(b) of this legislation. Under that definition, an employer is H–1B dependent if it has 51 or more full-time equivalent employees, 15% or more of whom are H–1B workers. Employers with 25 or fewer full-time equivalent employees are H–1B dependent if they have more than 7 H–1B employees, and employers with between 26 and 50 full-time equivalent employees are H–1B dependent if they have more than 12 H–1B employees.

The second category of covered employers is those who have been found to have committed a willful failure or a willful misrepresentation under 212(n)(2)(C) or 212(n)(5). These employers must include the new statements on their applications for five years after the finding of violation. Of course, in order to trigger coverage, the finding of willful violation must have been made in a manner consistent with the other procedural requirements in the Act, including the prohibition on the investigation of complaints or other information provided more than 12 months after the alleged violation, see 212(n)(2)(A) and 212(n)(2)(G)(v). Thus, this provision confers no superseding authority for DOL to take action with respect to violations outside that time period.

Under new subparagraph (E)(ii) of 212(n)(1), employers required to include the new statements on their applications are excused from doing so on applications that are filed only on behalf of ''exempt'' H–1B nonimmigrants. An ''exempt'' H–1B nonimmigrant is defined in new paragraph (3)(B) of section 212(n) (added by section 102(b) of this legislation) as one whose wages, including cash bonuses and other similar compensation, are equal to at least $60,000 or who has a master's or higher degree (or its equivalent). In determining whether an employer is H–1B dependent, under new paragraph (3)(C) (also added by section 412(b) of this legislation), these exempt H–1Bs are excluded from both the numerator and denominator in the calculation of the percentage (or, in the case of employers with 50 or fewer full-time equivalent employees, from the count of both total full-time equivalent employees and the count of H–1Bs) for the first six months after enactment, or until promulgation of final regulations, whichever is longer.

Finally, subparagraph (E)(ii) specifies that the requirement to include the new statements on applications applies only to applications filed before October 1, 2001.

Subsection 412(c) authorizes employers to post information relating to H–1Bs electronically. This provision is intended to allow employers a choice of methods for informing their employees of the sponsorship of an H–1B nonimmigrant. An employer may either post a physical notice in the traditional manner, or may post or transmit the identical information electronically in the same manner as it posts or transmits other company notices to employees. Therefore, use of electronic posting by employers should not be restricted by regulation.

Subsection 412(d) makes the new attestation requirements effective on the date of issuance of final regulations to carry them

out, and the associated definitions and the new posting provision effective upon enactment.

Subsection 412(e) allows the Secretary of Labor and the Attorney General to reduce the period for public comment on proposed regulations to no less than 30 days.

SECTION 413. CHANGES IN ENFORCEMENT AND PENALTIES

This section specifies the penalty structure for failures to meet the new labor conditions added by section 412. It also raises penalties for willful failures to meet existing labor conditions, and imposes a special penalty for a willful violation of such a condition in the course of which an employer displaces a U.S. worker. It also clarifies that certain kinds of employer conduct constitute a violation of the prevailing wage attestation, and that other kinds of employer conduct are also prohibited in the context of the H–1B program. Finally, it grants certain new authorities to the Secretary of Labor and establishes a special enforcement mechanism administered by the Attorney General to address alleged violations of the selection portion of the recruitment attestation.

Subsection 413(a) sets out a new version of 212(n)(2)(C) of the Immigration and Nationality Act, the provision currently specifying the penalties for certain failures to meet labor conditions. In that subparagraph as amended, clause (i) specifies the penalties for a failure to meet a condition of paragraph (1)(B) (strike or lockout) or a substantial failure to meet a condition of paragraph (1)(C) (posting) or (1)(D) (contents of application), or a misrepresentation of material fact. These remain as they are under current law: administrative remedies including a $1000 fine per violation and a one-year debarment. The clause also specifies that these penalties also apply to a failure to meet a condition of new paragraphs (1)(E) or (1)(F) (the non-displacement attestations) and to a substantial failure to meet a condition of new paragraph (1)(G)(i)(I) (good faith recruitment). The Secretary should consider an employer's compliance with the H–1B program as a whole in determining whether a ''substantial failure'' has occurred.

New clause (ii) of section 212(n)(2)(C) sets out the new increased penalties for willful failures to meet any condition in paragraph (1), willful misrepresentations of material fact, or violations of new clause (iv) prohibiting retaliation against whistleblowers. These consist of administrative remedies including a $5000 civil fine per violation and a 2 year debarment.

New clause (iii) sets out a further enhanced penalty for willful failures to meet a condition of paragraph (1) or willful misrepresentations of material fact in the course of which failure or misrepresentation the employer displaced a U.S. worker within 90 days before or after the date of the filing of the visa petition for the H–1B worker by whom the U.S. worker was displaced. This penalty consists of administrative remedies including a $35,000 per violation civil fine and a three year debarment.

The rationale for this new penalty is that there have been expressions of concern that employers are bringing in H–1B workers to replace more expensive U.S. workers whom they are laying off. Current law, however, requires employers to pay the higher of the prevailing or the actual wage to an H–1B worker. Thus, the only way an employer could profitably be systematically doing what has been being suggested is by willfully violating this obligation. Otherwise, the employer would have no economic reason for preferring an H–1B worker to a U.S. worker as a potential replacement. Thus, the new penalty set out in new clause (iii) is designed to assure that there are adequate sanctions for (and hence adequate deterrence against) any such conduct by imposing a severe penalty on a willful violation of the existing wage-payment requirements in the course of which an employer ''displaces'' a U.S. worker with an H–1B worker.

At the same time, Congress chose not to make the layoff itself a violation. The reason for this is that there are many reasons completely unconnected to the hiring of H–1B workers why an employer may decide to lay off U.S. workers: for example, because it decides to discontinue a product line that is losing money, because it is inefficient to maintain an office in a particular location, or because it has decided to refocus on other aspects of its business. Congress did not want to turn these legitimate business decisions into investigable, let alone punishable events. Accordingly, it is important to understand that unlike the new attestation requirements imposed by the amendments to section 212(n)(1), clause (iii) of section 212(n)(2)(C) provides no new independent basis for DOL to investigate an employer's layoff decisions. The only point at which DOL can do so pursuant to clause (iii) is after it has already found that the employer has committed a willful violation of one of the pre-existing labor condition attestations.

Thus, just as was the case before enactment of clause (iii), to be actionable by DOL in the first instance, except where an employer has executed one of the new attestations added to section 212(n)(1), an allegation must provide reasonable cause to believe not that an employer has displaced a U.S. worker with an H–1B worker but that an employer has violated one of the pre-existing attestations (and, of course, the other procedural requirements for initiation of an investigation must be satisfied as well). Clause (iii) comes into play only after DOL has found that an employer has committed such a violation, and after it has been found to be willful. At that point, and not before, provided that there is reasonable cause to believe that an employer had also displaced a U.S. worker in the course of committing that violation, it would be proper for DOL to investigate, but only in order to ascertain what penalty should be imposed. The definitions concerning ''displacement'' and the like, set out in new 212(n)(3) and 212(n)(4) of the Immigration and Nationality Act, and discussed in the previous portion of this section-by-section analysis dealing with the amendments to that Act made by section 412 of this legislation, apply in this context as well.

The ''administrative remedies'' all these clauses refer to (as well as those referred to in new subparagraph 212(n)(5)(E) added by subsection 413(b) of this Act) are unchanged from the ''administrative remedies'' the current version of 212(n)(2)(C) makes available. It should be noted that these do not include an order to an employer to hire, reinstate, or give back pay to a U.S. worker as a result of any violation an employer may commit. In current law, the Secretary's authority to issue an order for back pay even with respect to H–1B workers who are not paid the prevailing wage does not come from the ''administrative remedies'' authority granted in 212(n)(2)(C) but from a separate provision, 212(n)(2)(D), specifically authorizing the issuance of ''order[s] . . . for payment of such amounts of back pay as may be required to comply with the requirements of paragraph (1), whether or not a penalty under subparagraph (C) has been imposed.'' That subparagraph would have been worded quite differently if the authority it granted was already included in the ''administrative remedies'' authority granted under subparagraph (C).

This construction of the phrase is reinforced by the fact that suggestions from a number of quarters, including the Administration, that the Secretary should be granted the authority to issue orders of this type with respect to U.S. workers, were advanced and ultimately rejected in the final version of this legislation. In the course of negotiations leading to the bill currently before the Senate, the Administration ultimately was forced to accept the reality that authority of this type could not be conferred without radically transforming the way this program operates and indicated that acceptance by withdrawing its demand for this authority in favor of other concessions. The relevant documents from the Administration demonstrating this are submitted for the record following this statement. As can be seen, the initial document contains a point 7 seeking this authority, and that point 7 is crossed out in the later document. The reason suggestions for inclusion of this type of authority were ultimately rejected was the sense that they would end up transforming the traditional enforcement model used for the current program into something more resembling a new font of civil employment litigation.

New clause (iv) essentially codifies current Department of Labor regulations concerning whistleblowers. It is included not in order to change current standards concerning when a person has been the victim of retaliation, but because the source of statutory authority for the current regulations is somewhat unclear.

New clause (v) is intended to complement clause (iv) by directing the Secretary of Labor and the Attorney General to devise a process to make it easy for someone who has filed a complaint under clause (iv) to seek a new job. It is contemplated that this process would be expeditious and easy to use, so that the employee does not need to wait for a new employer to obtain approval for a new petition in order to change jobs in these circumstances.

New clause (vi)(I) prohibits employers from requiring H–1B workers to pay a penalty for leaving an employer's employ before a date agreed to between the employer and the worker. It directs that the Secretary is to decide the question whether a required payment is a prohibited penalty as opposed to a permissible liquidated damages clause under relevant State law (i.e. the State law whose application choice of law principles would dictate). Thus, this section does not itself create a new federal definition of ''penalty'', and it creates no authority for the Secretary to devise any kind of federal law on this issue, whether through regulations or enforcement actions. If the Secretary determines that a required payment is a prohibited penalty under governing State law, however, under this provision, it is also a violation of new clause (vi)(I), and the Secretary may take action under new subclause (vi)(III).

New clause (vi)(II) prohibits employers from requiring H–1B workers to reimburse or otherwise compensate employers for the new fee imposed under new section 214(c)(9), or to accept such reimbursement or compensation.

New clause (vi)(III) specifies that the penalty for violating subclauses (I) or (II) is a civil monetary penalty of $1,000 per violation and the return to the H–1B worker (or to the Treasury, if the H–1B worker cannot be located) of the required payment made by the worker to the employer.

New clause (vii) addresses an issue known colloquially as ''benching.'' This issue involves a practice under which an employer brings over an H–1B worker on the promise that the worker will be paid a certain wage, but then pays the worker only a fraction of that wage because the employer does not have work for the H–1B worker to do. There

is a shortage of evidence on the extent to which employers are engaging in this practice. The anecdotal information suggests that to the extent employers are engaging in it, they are likely principally to be contractors who hire out their employees to other employers for particular projects.

Subclause (I) clarifies that this practice of ''benching'' is a violation of the employer's obligation to pay the prevailing or actual wage. It is the intent and understanding of Congress that this includes an obligation to provide the full benefits package that the employer would provide to a U.S. worker as required under clause (viii) discussed below.

Subclause (II) further clarifies that in the case of an H–1B worker designated as a part-time employee on a visa petition, an employer commits this violation by failing to pay the H–1B worker for the number of hours, if any, the employer has designated on the petition at the rate of pay designated on the petition. Nothing in subclause (II) is intended to preclude H–1B employment on a part-time or as-needed basis, so long as that is the understanding on which the H–1B employee was hired, or to impose or authorize the Secretary of Labor or the Attorney General to impose any new requirement that the employer designate in advance the hours a part-time H–1B employee is expected to work. Additionally, nothing in subclauses (I) or (II) is intended to give the Department of Labor the authority to reclassify an employee designated as part-time as full-time based on the employee's actual workload after the employee begins employment. Finally, of course, nothing in clause (vii) is intended to prohibit an employer from terminating an H–1B worker's employment on account of lack of work or for any other reason.

Subclause (III) describes the manner in which the provisions of subclauses (I) and (II) apply to an employee who has not yet entered into employment with an employer. In such cases, the employer's obligation is to pay the H–1B worker the required wage beginning 30 days after the H–1B worker is first admitted, or in the case of a nonimmigrant already in the United States and working for a different employer, 60 days after the date the H–1B worker becomes eligible to work for the new employer. If a change of status or other formalities beyond approval of the petition are required in order for the latter nonimmigrant to be eligible to work for the employer, the 60 days begin to run on the date that the last formality necessary to make the H–1B worker eligible to work for the employer has been completed.

Subclause (IV) makes clear that an employer does not commit a violation of the prevailing/actual wage attestation by granting an H–1B worker a period of unpaid leave or reduced pay for reduced hours worked at the request of the H–1B worker. Thus, H–1B employees taking unpaid leave for other reasons, i.e. leave under the Family and Medical Leave Act or other corporate policies, annual plant shutdowns for holidays or retooling, summer recess or semester breaks, or personal days or vacations, should not be considered ''benched.'' It is possible, of course, that the employer might violate some other law, either State or federal, by failing to pay an H–1B worker for leave time, if that law requires employers to pay workers for such leave periods. It is also possible that the employer might violate new clause (viii) of section 212(n)(2)(C), discussed below, if it would ordinarily offer similarly situated U.S. workers paid leave and is singling out the H–1B worker for denial of this benefit. Hence the inclusion of subclause (VI), which makes clear that the fact that a practice is within an exception covered by this subclause does not insulate it from challenge under clause (viii). If the leave is requested by the H–1B worker, however, it does not present a clause (vii) issue.

Subclause (V) is intended to make clear that a school or other educational institution that customarily pays employees an annual salary in disbursements over fewer than 12 months may pay an H–1B worker in the same manner without violating clause (vii), provided that the H–1B worker agrees to this payment schedule in advance. Because Congress is not aware of all the possible kinds of legitimate salary arrangements that employers may establish, the situation covered by subclause (V) may be merely illustrative of other kinds of legitimate salary arrangements under which an employee's rate of pay may vary. Accordingly, so long as an H–1B worker is not being singled out by such a salary arrangement, it is not Congress's intent that such a salary arrangement be treated as suspect under or violative of clause (vii) merely because there is no special provision like subclause (V) addressing it. To the contrary, if it is an arrangement that the employer routinely uses with U.S. employees as well as H–1B workers, it should be treated as presumptively not a violation of that clause.

Clause (viii) adds an additional clarification concerning an employer's obligations under the attestation set forth in 212(n)(1)(A). It states that it is a violation of those obligations for an employer to fail to offer benefits and eligibility for benefits to H–1B workers on the same basis, and in accordance with the same criteria, as the employer offers benefits and eligibility for benefits to U.S. workers. This obligation is only an obligation to make benefits available to an H–1B worker if an employer would make those benefits available to the H–1B worker if he or she were a U.S. worker. Thus, if an employer offers benefits to U.S. workers who hold certain positions, it must offer those same benefits to H–1B workers who hold those positions. Conversely, if an employer does not offer a particular benefit to U.S. workers who hold certain positions, it is not obligated to offer that benefit to an H–1B worker. Similarly, if an employer offers performance-based bonuses to certain categories of U.S. workers, it must give H–1B workers in the same categories the same opportunity to earn such a bonus, although it does not have to give the H–1B worker the actual bonus if the H–1B worker does not earn it. While this clause is not intended to require that H–1B workers be given access to more or better benefits than a U.S. worker who would be hired for the same position, it does not forbid an employer from doing so. For example, an employer might conclude that it will pay foreign relocation expenses for an H–1B worker whereas it will not pay such relocation expenses for a U.S. worker.

Clause (viii)'s phrasing of the employer's duty as an obligation to provide ''benefits and eligibility for benefits'', rather than just one or the other, was chosen to protect against two eventualities. On the one hand, it would not be proper for an employer to make an H–1B worker ''eligible'' for benefits on the same basis as its U.S. workers but then proceed to actually provide them to its U.S. workers but never provide them to the H–1B worker. While this construction of an obligation to make a person ''eligible'' for a benefit may seem a little strained, sufficient concerns were expressed about this possibility that it seemed worth eliminating any ambiguity on the point by including the first prong of the obligation. On the other hand, in order actually to receive many kinds of benefits, employees are frequently required to take some kind of action on their end, whether to select a plan, to provide partial payment for the benefits, to work for the employer for a certain period of time, or to perform at a high level. The actual provision of other kinds of benefits may also turn on other contingencies, such as, in the case of some kinds of bonuses and stock options, the company's year-end performance. Accordingly, the core obligation that makes sense with respect to many benefits is an obligation to make H–1B workers ''eligible'' for them. Finally, the obligation is to make the H–1B worker eligible ''on the same basis, and in accordance with the same criteria'' as U.S. workers. Thus, in determining whether an employer is meeting this obligation, care must be taken to find the right U.S. worker to whom to compare the H–1B worker in terms of access to benefits.

A few examples are useful in understanding this important principle. If a particular benefit is available only to an employer's professional staff, then it only need be made available to an H–1B filling a professional staff position. If an employer's practice is not to offer benefits to part-time or temporary U.S. workers, then it is not required to offer benefits to part-time H–1B workers or temporary H–1B workers employed for similar periods. If an employer's practice is to have its U.S. workers brought in on temporary assignment from a foreign affiliate of the employer remain on the foreign affiliate's benefits plan, then it must allow its H–1B workers brought in on similar assignments to do the same. Likewise, in that instance, it need not provide the H–1B workers with the benefits package it offers to its U.S. workers based in the U.S. Indeed, even if it does not have any U.S. workers stationed abroad whom it has brought in in this fashion, it should be allowed to keep the H–1B worker on its foreign payroll and have that employee continue to receive the benefits package that other workers stationed at its foreign office receive in order to allow the H–1B worker to maintain continuity of benefits. In that instance, the basis on which the worker is being disqualified from receiving U.S. benefits (that he or she is receiving a different benefits package from a foreign affiliate) is one that, if there were any U.S. workers who were similarly situated, would be applied in the same way to those workers. Hence the H–1B worker is being treated as eligible for benefits on the same basis and according to the same criteria as U.S. workers. It is just that the criterion that disqualifies him or her happens not to disqualify any U.S. workers. Or to put the point a little differently: the H–1B worker is being given different benefits from the U.S. workers not because of the worker's status as an H–1B worker but because of his or her status as a permanent employee of a foreign affiliate with a different benefits package.

This provision is not meant to supersede an employer's obligations under other provisions of the law, or its obligations to comply with international agreements governing social security benefits, taxes, retirement plans or other similar benefits. Finally, this provision does not require an employer to offer benefits or any particular category of benefits to its H–1B workers (or anyone else) if its practice is not to offer benefits or the particular category of benefits to its similarly situated U.S. workers.

Section 413(b) adds a new paragraph (5) at the end of 212(n) that sets out the exclusive remedial mechanism for alleged violations of the selection portion of the recruitment attestation set out in new paragraph 212(n)(1)(G)(i)(II) or any alleged misrepresentations relating to that attestation. It also contains a savings clause that states that it should not be construed to affect the Secretary or the Attorney General's authorities with respect to other violations. This was to address the possible case where evidence

tending to establish a violation of the selection attestation also tends to establish a violation of some other attestation. This savings clause, however, is not meant to serve as a backdoor way around the exclusivity of the remedy set out in 212(n)(5) for a violation of the selection attestation itself. It should also be noted that by setting up separate mechanisms, one lodged at Labor concerning recruitment and one lodged at Justice concerning selection, this provision contemplates that the two different kinds of violations be handled differently. Thus, it does not contemplate, for example, recharacterizing a ''failure to select'' complaint as a ''failure to recruit in good faith'' and then using the enforcement regime for the latter category of violations to pursue what in fact is a ''failure to select'' complaint. Moreover, it is unlikely that evidence tending to establish a violation of the selection attestation would tend to establish a violation of the recruitment attestation, since such evidence, whatever else it would tend to prove, would tend to prove that the employer had made sufficient efforts to recruit that others applied for the job. Finally, it should be noted that nothing in this section should be construed to give the Attorney General or the Department of Labor any authority to write regulations or guidelines concerning permissible and impermissible selection criteria or mechanisms for determining when such selection criteria are permissible or impermissible.

Under the enforcement scheme set up by paragraph (5), any person aggrieved by an alleged violation of 212(n)(1)(G)(i)(II) or a related misrepresentation who has applied in a reasonable manner for the job at issue may file a complaint with the Attorney General within 12 months of the date of the violation or misrepresentation. The Attorney General is charged with establishing a mechanism for pre-screening such a complaint to determine whether it provides reasonable cause to believe that such a violation or misrepresentation has occurred. If the Attorney General does find reasonable cause, she is charged with initiating binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the Service's roster.

The arbitrator is to be selected in accordance with the procedures and rules of the Service. He or she should have experience with personnel decisions in the industry to which the employer belongs, unless for some reason this is not possible. The fees and expenses for the arbitrator are to be paid by the Attorney General.

The arbitrator is charged with deciding whether the alleged violation or misrepresentation occurred and whether, if it occurred, it was willful. The complainant has the burden of establishing such violation or misrepresentation by clear and convincing evidence. If the complainant alleges that the violation or misrepresentation was willful, the complainant also has the burden of establishing that allegation under the same standard. This standard was selected in order to avoid the risk that the arbitrator could otherwise end up simply substituting the arbitrator's judgment for the employer's concerning the relative qualifications of potential employees. The arbitrator's decision should likewise pay careful heed to the rule of construction set forth at the end of section 212(n)(1).

The arbitrator's decision is subject to review by the Attorney General only to the same extent as arbitration awards are subject to vacation or modification under 9 U.S.C. 10 or 11, and to judicial review only in an appropriate court of appeals on the grounds described in 5 U.S.C. 706(a)(2).

The remedies for violations resemble those established for the other violations of the labor condition attestations (administrative remedies including $1,000 fines per violation or $5,000 fines per willful violation and a potential debarment of one year, or two years for a willful violation).

The Attorney General is prohibited from delegating the responsibilities assigned her to anyone else unless she submits a plan for such a delegation 60 days before its implementation to the Committees on the Judiciary of each House of Congress. This is in order to assure that Congress has an adequate opportunity to be involved in the decision regarding where at the Department of Justice the Attorney General plans on lodging this function.

Section 413(c) adds a new section 212(n)(2)(E) describing the liability of an employer who has executed the ''secondary non-displacement attestation'' for placing a non-exempt H–1B worker with respect to whom it has filed an application containing such an attestation with another employer under the circumstances described in paragraph (1)(F). If the other employer has displaced a U.S. worker (under the definitions used in this legislation) during the 90 days before or after the placement, the attesting employer is liable as if it had violated the attestation. The sanction is a $1,000 civil penalty per violation and a possible debarment. The attesting employer can only receive a debarment, however, if it is found to have known or to have had reason to know of the displacement at the time of the placement with the other employer, or if the attesting employer was previously sanctioned under 212(n)(2)(E) for placing an H–1B nonimmigrant with the same employer. If an employer has conducted the inquiry that it is required to attest that it has conducted before any such placement, and (as that attestation requires) acquired no knowledge of displacement of a U.S. worker in the course of that inquiry, it should ordinarily be presumed not to have known or have reason to know of a displacement unless there is an affirmative showing that it did have such knowledge or reason to know. It should also be noted that an employer can be held liable for such a placement only if it filed an application that contained the ''secondary non-displacement attestation,'' and only with respect to H–1B workers covered by such an application.

Subsection 413(d) adds a new section 212(n)(2)(F) granting the Secretary authority to conduct random investigations of employers found after enactment of this act to have committed a willful violation or willful misrepresentation for five years following the finding.

Subsection 413(e) grants the Secretary limited additional authority with respect to other employers to investigate certain kinds of allegations of failures to comply with labor condition attestations. The Secretary's authority under current law is limited to investigating complaints concerning such violations that come from aggrieved parties. Under the authority granted by new subparagraph (G) of 212(n)(2), added by paragraph (1) of subsection 413(e) of this Act, under certain circumstances the Secretary will also be authorized to investigate for 30 days allegations of willful failures to meet a condition of paragraph (1)(A), (1)(B), (1)(E), (1)(F), or (1)G)(i)(I), allegations of a pattern or practice by an employer of failures to meet such a condition, or allegations of a substantial failure to meet such a condition that affects multiple employees even if those allegations do not come from an aggrieved party.

The rationale for this grant of authority is to make sure that if DOL receives specific, credible information from someone outside the DOL that an employer is doing something seriously wrong but that information comes from someone who is not an aggrieved party, DOL can nevertheless pursue the lead.

In order for the Secretary to exercise the authority granted her under new subparagraph (G), the allegations will have to be based on specific credible information from a source who is likely to have knowledge of an employer's practices of employment conditions or an employer's compliance with the employer's labor condition application. Thus, this provision does not authorize ''self-directed'' or ''self-initiated'' investigations by the Secretary. Rather, as specified in clauses (ii) and (iii), an investigation can only be launched on the basis of a communication by a person outside the Department of Labor to the Secretary, or on the basis of information the Secretary acquires lawfully in the course of another investigation within the scope of one of her statutory investigative authorities. The source's identity must also be known to the Secretary. Thus, the Secretary may not rely on anonymous tips in exercising this authority, although she may withhold the source's identity from the employer or others. As clause (iv) states, information received from the employer that the employer is required to file in order to obtain an H–1B visa does not constitute the ''receipt of information'' under this subparagraph. This is meant to be illustrative rather than exclusive. The same principle would prevent other kinds of information filed by the employer in the course of seeking some other benefit from DOL, such as labor certification, for example, to constitute the ''receipt of information'' either.

In giving effect to the provisions specifying the kinds of alleged violations that may be investigated under this authority, the purpose of this authority should likewise be taken into account. Thus, for example, a ''substantial failure to meet such a condition that affects multiple employees'' should not be understood to mean an unintentional posting violation even if it affects many employees. Nor should it be understood to mean a more significant violation but one that affects only a handful of people. Rather, it should be understood to be a violation of a magnitude that warrants the unusual step of committing DOL's resources even though there is no aggrieved complaining party.

Subparagraph (G) also establishes several procedural safeguards to prevent this authority from being abused. First, under clause (i), there must be a finding of reasonable cause to believe that an employer is committing one of the covered violations. Second, the Secretary (or the Acting Secretary, in the case of the Secretary's absence of disability) must personally certify that this requirement and the other requirements of clause (i) have been met before an investigation may be launched. This authority cannot be delegated to anyone else in the Department. Third, as in current law regarding investigations of complaints, the investigation may only last 30 days. Fourth, rather than being a generalized grant of authority to investigate the employer, the Secretary's authority is limited to investigating only the alleged violation or violations. Fifth, under clause (ii), the information provided by the source must be put in writing, either by the source itself or by a DOL employee on behalf of the source. Sixth, under clause (v), the information may not concern a violation that took place longer ago than 12 months, so investigations may not be launched on the basis of stale information. Additionally, under clause (vi), the Secretary is directed to provide notice to an employer of the information that may lead to the launching of an investigation and an opportunity to respond to that information before an investigation is actually initiated.

This last requirement is waivable by the Secretary where the Secretary determines that complying with it will interfere with

her efforts to secure compliance by the employer with the H–1B program requirements. That the decision whether to waive it is left to the Secretary's discretion does not mean that it should be made lightly, or that it should be the rule rather than the exception. Rather, it is Congress's expectation that the Secretary will provide the otherwise required notice unless she has a reasonable belief, based on credible evidence, that the employer can be expected to avoid compliance because of the notice. Past, proven willful violations could be such evidence. Congress's belief, however, is that most employers will correct a problem if brought to their attention and it cannot be assumed that simply because allegations have been made that the employer will not do so. The scant number of willful violations that DOL has found in the history of this program suggests that this is likely to be the rule rather than the exception. Thus, in many cases, notice will advance the twin ends of compliance (or a credible explanation demonstrating that the facts do not support the allegations and an investigation is not needed) and the ability to preserve the Secretary's enforcement resources so they can be used on other pressing matters.

Finally, clause (vii) makes clear that after completion of the 30-day investigation, if the Secretary finds that a reasonable basis exists to make a finding that a violation of the type described in clause (i) has occurred, the procedure follows the procedure in existing law, under which the employer is entitled to notice of the finding and an opportunity for a hearing within 60 days. After the hearing, the employer is entitled to a finding by the Secretary not more than 60 days later.

One last point should be noted in regard to this authority. Both this new grant of authority and existing authority to investigate complaints require that DOL have ''reasonable cause to believe'' that the employer is committing a violation (limited, in the case of the authority granted in new subparagraph (G), to certain kinds of violations). This requirement is meant to track that of the Fourth Amendment. Thus, if an employer believes that DOL does not have the ''reasonable cause'' required, it is free to refuse to give DOL access to the materials DOL is seeking and put DOL to the test on that point. In other words, Congress's view is that an employer does not waive any Fourth Amendment rights by applying for an H–1B visa or by filing any documents required to obtain one, and that DOL has no authority to use the occasion of the employer's filing such materials to compel such a waiver.

Paragraph (2) of subsection 413(e) sunsets the new DOL investigative authority granted by paragraph (1) on September 30, 2001.

Subsection 413(f) clarifies that none of the enforcement authorities granted in subsection 212(n)(2) as amended should be construed to supersede or preempt other enforcement-related authorities the Secretary of Labor or the Attorney General may have under the Immigration and Nationality Act or any other law.

SECTION 414. COLLECTION AND USE OF H–1B NONIMMIGRANT FEES FOR SCHOLARSHIPS FOR LOW-INCOME MATH, ENGINEERING AND COMPUTER SCIENCE STUDENTS AND JOB TRAINING OF UNITED STATES WORKER

Subsection 414(a) adds a new paragraph at the end of section 214(c) of the Immigration and Nationality Act imposing a $500 fee on employers filing petitions for H–1B nonimmigrants. This fee is to be collected by the Immigration and Naturalization Service. The statute requires that the fee be charged starting on December 1, 1998. INS has informed the Congress that this will give it sufficient time to establish a mechanism for collecting the fee that will not delay the processing of visa petitions. It is the Congress's hope and expectation that INS will establish that system as expeditiously as possible, and will have it in place on December 1. If, however, INS does not have a system up and running for collecting the fee at that time, it is not required or expected to stop accepting, processing, or approving visa petitions. To the contrary, it is expected that it will continue to accept, process, and approve visas without delay while also moving as quickly as possible to put the system for collecting the fee in place.

Under this provision, the fee will be paid by the employer in three circumstances: (1) upon initial application for the nonimmigrant to obtain H–1B status (through change from another status or by securing a visa from abroad); (2) the first time an employer files a petition for the purpose of extending the nonimmigrant's H–1B status; and (3) when a new employer is petitioning for an alien who is already in H–1B status whom the new employer wants to hire away from the H–1B's current employer.

The fee will apply to any petition filed by the same employer that has the effect of extending the nonimmigrant's status for the first time, whether that is its sole purpose or whether it is a dual-purpose petition that both, for example, advises the Immigration and Naturalization Service of a material change in the terms and/or conditions of the alien's employment and extends the alien's stay.

On the other hand, an employer will not have to pay the fee for any extension after a first extension petition filed by that employer. This section is meant to ensure that a single employer not be required to pay the $500 fee more than twice for a single H–1B nonimmigrant. In addition, petitions filed for such purposes as advising the Immigration and Naturalization Service of a material change in the terms and/or conditions of the alien's employment (an amended petition) or to advise the INS of a change in the circumstances of the employer (such as notification of a successor-in-interest following a corporate merger, acquisition or sale), or for assigning an H–1B worker to a new area of employment or to a different legal entity within the employer's corporate structure, will not ordinarily require payment of the fee. To repeat, the only circumstance in which an employer will have to pay the fee for a petition of this type is when the petition also has the effect of extending the alien's status and is the first petition that employer has filed to extend that alien's status.

In addition, even when a prior employer paid the fee, a new employer would be required to pay the fee when it hires an H–1B nonimmigrant who changes jobs or when an H–1B is hired to engage in concurrent employment.

Universities and nonprofit research institutes are exempted from the fee.

Subsection 414(b) amends section 286 of the Immigration and Nationality Act by adding a new subsection (s) requiring the establishment of an account for holding the fees assessed under section 214(c). The new subsection also specifies the distribution of the funds, to be divided among the Workforce Improvement Act (56.3%), a new program established by the Act setting up low-income university scholarships for mathematics, engineering, and computer science administered by the National Science Foundation (28.2%), grants for science and math development for those in kindergarten through 12th grade through existing programs administered by the National Science Foundation (8%), DOL processing and enforcement relating to the H–1B program (6% total), and INS processing of H–1B visas (1.5%).

With respect to the funding for DOL, although the funds are not equally divided by law between the processing and enforcement functions during the first fiscal year, the expectation is that they will be split 50–50 unless DOL determines that it needs to spend more funds on processing in order to get into compliance with the 7 day statutory deadline under which it is supposed to be either certifying an application or rejecting it for incompleteness or obvious inaccuracies. After the first fiscal year, the money is equally split by statute, except that none of the money can be spent on enforcement unless the Secretary certifies that the Department was in substantial compliance with the 7-day deadline during the previous calendar year. At present, DOL is routinely violating this obligation, taking up to a month and sometimes up to three months to certify an application, despite the fact that the task is essentially ministerial. It is time for that to end. Moreover, getting into compliance with this obligation should not be accomplished by diverting resources from labor certifications for the permanent employment program. These are presently routinely taking two years, which is far too long.

The INS funds are designed to enable INS to establish a mechanism for collecting the new fee, to facilitate its revision of its forms and computer systems so as to better enable it to collect the fee and improve its data collection capacity, and to speed up INS's processing time for petitions, which is presently taking up to 3 months. This function should be able to be performed in no more than a month.

Subsection 414(c) uses a portion of the funds deposited in the account established under subsection 104(b) for the Secretary of Labor to provide grants for demonstration projects and programs for technical skills training for both employed and unemployed workers. These projects and programs will be administered through local boards established under section 121 of the Workforce Investment Act of 1998 or regional consortia of local boards.

Through this provision, the Secretary will be able to award grants to innovative programs to train employees to meet the workforce shortage needs in the high-tech industry. By doing so, this legislation works to address our country's long-term employment needs by training American workers to fill these crucial jobs. In addition, the legislation addresses the issue of underemployment by allowing grants to go to training programs for both employed and unemployed workers. A regional consortium of local boards can also apply for grants that will encourage regions to work together to meet their area's unique employment needs and encourage business and community colleges to work together to train that region's workers. These grants will allow the Secretary to support innovative training programs that can serve as models for other training programs around the country to learn from their best practices.

Subsection 414(d) authorizes a low-income scholarship program to be administered by the National Science Foundation. This program would allow the Director of the National Science Foundation to award scholarships to low-income students pursuing an associate, undergraduate or graduate level degree in mathematics, engineering, or computer science. The scholarships will be funded through the account established under subsection 414(b). Like the previous subsection, this provision invests in the American workforce by providing scholarships for students interested in pursuing studies in high-tech fields. By making scholarships available to low-income students, this legislation provides incentive and opportunity for

students to enter careers in the growing high-tech industry.

SECTION 415. COMPUTATION OF PREVAILING WAGE

Under current law an employer must attest on a Labor Condition Attestation that an individual on an H–1B will be paid the greater of the actual or prevailing wage paid to similarly employed U.S. workers.

Subsection 415(a) amends section 212 of the Immigration and Nationality Act by adding at the end a new subsection (p) that spells out how that wage is to be calculated in the context of both the H–1B program and the permanent employment program in two circumstances. Paragraph 212(p)(1) provides that the prevailing wage level at institutions of higher education and nonprofit research institutes shall take into account only employees at such institutions. The provision separates the prevailing wage calculations between academic and research institutions and other non-profit entities and those for for-profit businesses. Higher education institutions and nonprofit research institutes conduct scientific research projects, for the benefit of the public and frequently with federal funds, and recruit highly-trained researchers with strong academic qualifications to carry out their important missions. The bill establishes in statute that wages for employees at colleges, universities, nonprofit research institutes must be calculated separately from industry. Although this legislation does not explicitly require separate prevailing wage calculations in relation to for-profit and other non-profit entities that are not higher education institutions and nonprofit research institutes this is not meant to preclude the Department of Labor from making these same common-sense distinctions for other nonprofit entities.

New paragraph 212(p)(2) spells out the prevailing wage criteria for professional sports. Where there is a collective bargaining agreement (CBA), the minimum wage established therein constitutes the prevailing pay rate. Where no CBA exists, the prevailing wage is the minimum salary mandated by the professional sports league which teams must pay players—foreign nationals as well as U.S. workers. The system currently employed to determine the prevailing wage for minor league professional sports uses a ''mean wage.'' Because salaries for professional athletes vary greatly (up to 20 times difference between lowest and highest paid players), using the mean wage to calculate prevailing wage actually encourages the leagues to pay approximately fifty percent of the U.S. athletes a lower salary than similarly situated foreign national athletes. This current system is a disincentive to increase U.S. workers' salaries.

Subsection 415(b) of this legislation makes these rules for prevailing wage calculations retroactive so that they may be applied to any still-open prevailing wage determinations. This will allow DOL to apply only a single set of rules, that set out in subsection 212(p), for making these calculations in these industries, starting on the date of enactment.

SECTION 416. IMPROVING OF COUNT OF H–1B AND H–2B NONIMMIGRANTS

Subsection 416(a) requires the Immigration and Naturalization Service to improve its counting of the number of actual individuals granted or admitted in H–1B status in each fiscal year, rather than counting approved petitions, which may or may not be used by an individual to obtain H–1B status after approval.

Subsection 416(b) requires the revision of the petition forms so as to assure that this can be done.

Subsection 416(c) requires the Attorney General to submit to the House and Senate Judiciary Committees (1) a quarterly count on the number of individuals issued visas or provided nonimmigrant status; and (2) beginning in FY 2000, on an annual basis, information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens issued H–1B visas. The first requirement is intended to provide an early warning system if the cap is coming close to being hit. The second requirement is intended to develop reliable information on how these visas are being used.

In collecting additional data regarding H–1B nonimmigrants, the agency should not have to impose additional or new paperwork burdens on employers. In fact, it is Congress's understanding that the data required to be furnished are currently being collected, but that they are not being entered into a database that would allow them to be used. As a result, the only information Congress has had made available to it on the use of the visas has come from DOL's compilation of information on applications, which, on account of multiple filings, does not accurately reflect who is really coming in. Finally, nothing in this provision should be construed to allow INS to delay or withhold approval or adjudication of petitions in order to comply with its obligations under this provision.

SECTION 417. REPORT ON OLDER WORKERS IN THE INFORMATION TECHNOLOGY FIELD

Subsection 417(a) directs the Director of the National Science Foundation to enter into a contract with the National Academy of Sciences to study the status of older workers in information technology field. This study is to focus on the best available data, rather than on anecdotal information.

Subsection 417(b) requires the results of that study to be supplied to the Committees on the Judiciary of each House of Congress no later than October 1, 2000.

SECTION 418. REPORT ON HIGH TECHNOLOGY LABOR MARKET NEEDS; REPORTS ON ECONOMIC IMPACT OF INCREASE IN H–1B NONIMMIGRANTS

Subsection 418(a) requires a study and report on high tech, U.S., and global issues for the next ten years overseen by the National Science Foundation and done by a panel to be transmitted to the Judiciary Committees of both Houses by October 1, 2000.

Subsection 418(b) directs that the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Chair of the Council of Economic Advisers, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, and any other member of the cabinet report to Congress on any reliable study that uses legitimate economic analysis that suggests that the increase in H–1B visas under this bill has had an impact on any national economic indicator, such as the level of inflation or unemployment, that warrants action by Congress.

Subtitle B

The content of this subtitle was added to S. 1723 on the Senate floor by an amendment offered by Senator Warner incorporating the text of H.R. 429, a bill to grant special immigrant status to certain NATO civilian employees.

SECTION 421. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO EMPLOYEES

This section amends Section 101(a)(27) of the Immigration and Nationality Act to add to the class of those eligible for special immigrant status certain NATO employees and their children on the same basis as employees of other qualifying international organizations.

Subtitle C

This subtitle makes an additional amendment to the Immigration and Nationality Act originally included in S. 1723 regarding permissible payments by universities to holders of visitors' visas.

SECTION 431. ACADEMIC HONORIA

This section amends section 212 of the Immigration and Nationality Act by adding at the end a new subsection (q) permitting universities and other nonprofit entities to pay honoraria and incidental expenses for a usual academic activity or activities to an alien admitted under section 101(a)(15)(B), so long as the alien has not received such payment or expenses from more than 5 institutions or organizations in the previous 6 month period.

PROPOSED ADMINISTRATION REVISIONS TO H.R. 3736 (THE JULY 29, 1998 VERSION):

1. Require either a $500 fee for each position for which an application is filed or a $1,000 fee for each nonimmigrant. Fee to fund training provided under JTPA Title IV. In addition, a small portion of these revenues should fund the administration of the H–1B visa program, including the cost of arbitration.

2. Define H–1B-dependent employers as:

a. For employers with fewer than 51 workers, that at least 20% of their workforce is H–1B; and

b. For employers with more than 50 workers, that at least 10% of their workforce is H–1B.

3. The recruitment and no lay-off attestations apply to: (1) H–1B dependent employers; and (2) any employer who, within the previous 5 years, has been found to have willfully violated its obligations under this law.

4. H–1B dependent employers attest they will not place an H–1B worker with another employer, under certain employment circumstances, where the other employer has displaced or intends to displace a U.S. worker (as defined in paragraph (4)) during the period beginning 90 days before and ending 90 days after the date the placement would begin.

5. DOL would have the authority to investigate compliance either: (1) pursuant to a complaint by an aggrieved party; or (2) based on other credible evidence indicating possible violations.

6. Establish an arbitration process for disputes involving the laying-off of any U.S. worker who has replaced by an H–1B worker, even of a non-H–1B dependent employer. This arbitration process would be largely similar to that laid out in H.R. 3736 except that it would be administered by the Secretary of Labor. The arbitrator must base his or her decision on a ''preponderance of the evidence.''

7. Reference in the bill to ''administrative remedies'' includes the authority to require back pay, the hiring of an individual, or reinstatement.

8. There must be appropriate sanctions for violations of ''whistleblower'' protections.

9. Close loopholes in the attestations:

a. Strike the provision that ''[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved.''

b. Clarify that job contractors can be sanctioned for placing an H–1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.

c. Do not exempt H–1B workers with at least a master's degree or the equivalent from calculations of the total number of H–1B employees.

d. Define lay-off based on termination for ''cause or voluntary termination,'' but exclude cases where there has been an offer of continuing employment.

10. Consolidate the LCA approval and petition processes within DOL, rather than within INS.

11. Broaden the definition of U.S. workers to include aliens authorized to be employed by this act or by the Attorney General.

12. Include a provision that prohibits unconscionable contracts.

13. Include a ''no benching'' requirement that an H–1B nonimmigrant in ''non-productive status'' for reasons such as training, lack of license, lack of assigned work, or other such reason (not including when the employee is unavailable for work) be paid for a 40 hour week or a prorated portion of a 40 hour week during such time.

14. Increase the annual cap on H–1B visas to 95,000 in FY 1998, 105,000 in FY 1999, and 115,000 in FY 2000. After FY 2000, the visa cap shall return to 65,000.

15. Eliminate the 7500 cap on the number of non-physician health care workers admitted under the H–1B program to make the bill consistent with our obligations under the GATS agreement.

ADMINISTRATION PACKAGE—SEPTEMBER 14, 1998

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* * * * *

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b. Clarity that job contractors can be sanctioned for placing an H–1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.

c. Do not exempt H–1B workers with at least a master's degree or the equivalent from calculations of the total number of H–1B employees.

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 16, 1998.

Hon. DORIS MEISSNER,
Commissioner, Immigration and Naturalization Service, Washington, DC.

DEAR COMMISSIONER MEISSNER: As I am sure you know, legislation raising the H–1B cap has been included in the Omnibus Appropriations bill. The final version is the result of hard work by all involved, including all of those who negotiated this compromise on behalf of the Administration.

There is one point on which I thought it would be useful to have a clear record of our shared understanding. The legislation creates a new $500 filing fee for most visa petitions, which the Attorney General is tasked with collecting, and which takes effect on December 1 of this year. I believe it is everyone's understanding that INS will be charged with devising the system for collecting this fee.

The point I wanted to confirm is that I also believe that it is everyone's understanding that if, as a result of unforeseen circumstances, it does not prove possible to have a system up and running by that time, our shared understanding is that the language in the bill concerning the fee will not result in a cessation of accepting, processing, or approving petitions on that account. Rather, I believe it is everyone's view that petitions should be continued to be accepted, processed, and approved in the interim, while INS continues to move as expeditiously as possible to finalize putting the fee-collection system in place.

Thank you for your attention to this matter.

Sincerely,

SPENCER ABRAHAM.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, October 29, 1998.

Hon. SPENCER ABRAHAM,
Chairman, Subcommittee on Immigration, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your October 16 letter concerning the implementation of the H–1B program. The Immigration and Naturalization Service (INS) has been working with your staff to identify and to address the management and administrative challenges associated with the proposed H–1B legislation that is now included in the Omnibus Appropriations Bill. These challenges include two sources of additional workload, those emanating from new requirements contained within the legislation, and those related to the increased volume of cases that must be processed.

The INS has already initiated efforts to meet the challenges posed for us, and fully expects to be able to implement the new fee provision proposed in the H–1B legislation by December 1. However, let me assure you that the INS will continue adjudicating H–1B applications, even if unforeseen circumstances cause a delay in establishing final procedures for fee collection and deposit.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

DORIS MEISSNER,
Commissioner.

DISTRICT OF COLUMBIA

Mr. BROWNBACK. Mr. President, I want to congratulate the bill managers for their hard work to reach an agreement on the bill before us today. I especially want to thank them for including the District of Columbia Adoption Improvement Act of 1998 in the omnibus appropriations bill.

As chairman of the Senate Oversight Subcommittee on Government Management, Restructuring, and the District of Columbia, improving adoption for foster care in the District is one of my highest priorities. For the past year, I, along with Senators DEWINE, GRASSLEY, CRAIG, and LANDRIEU, have been looking for ways to make it easier for children in the Nation's Capital to find an adoptive family.

Earlier this year, we hosted an Adoption Fair on Capitol Hill in which resulted in the adoption of five children to two families. We also held a hearing in the subcommittee to explore a solution that would shorten the time it takes for children in the District to be adopted.

Gordon Gosselink, age 13, testified before the subcommittee at this hearing about how he entered the District's foster care system at the age of two. For the next 10 years, he lived in several foster care homes and even endured physical abuse until he was finally adopted at the age of 13 by Robert and Mary Beth Gosselink. He said:

> Last year, I met Rob and Mary Beth Gosselink at a Christmas party. When my social worker told me that two people were hoping to adopt me, I was really excited. I knew that this was the one. I moved [in] with Rob and Mary Beth last year at Easter time, and now I am part of the Gosselink Family. Things are really great now. I like my neighborhood and I am doing well in school. Best of all, I am with a family who loves me forever. My parents now are adopting another boy named Ricardo who is 11 years old. I am looking forward to having a new brother. I know there are a lot of kids who are still waiting for a home. I hope they find homes, too, like me.

Some children are not as lucky as Gordon. Currently, there are 994 children in the District with the goal of adoption but only 50 percent have been referred to the District's adoption branch. Even worse, many children in the District grow up moving from foster care home to foster care home without finding an adoptive family by the age of 18. The most recent statistics indicate that 67 percent of the children who left the foster care system,

left because they turned 18 years old. In other words, one of the only ways out of the system, is to grow-up to adulthood within the system. Once these children turn 18, they are released to the streets without a family or a home.

Allowing just one child to grow up without the love, attention, and commitment of a family is a tragedy. Allowing hundreds to languish in foster care is a disgrace.

The District Child and Family Services Agency has been under the leadership of Ernestine Jones, the Federal court appointed receiver for nearly one year now. I am hopeful that reforming the system will remain a priority and these discouraging realities will no longer haunt the children who need the system most.

We must also recognize foster care and adoptive parents for their contribution and their example of taking in these children when they need them most. As many of the Senators, who have adopted children, know, we need to make it easier, not more difficult, for parents to adopt.

I believe this can be done and systemic improvements can be made with positive results—as seen in my home state of Kansas. The Kansas reform model of the Child and Welfare Services Agency has shown some immediate signs of success. Within one year of implementing these reforms, Kansas increased the number of children placed in adoptive homes from 25 percent to 50 percent. Prior to these reforms, the average stay for a child in the Kansas foster care system was two years. Now, the average stay in 13 months.

Using the Kansas model, we drafted the D.C. adoption reform language and came to a bipartisan agreement which included the Federal court appointed receiver and the Federal court appointed monitor. I am pleased that this compromise language is included in the omnibus appropriations bill. First, the bill would require the D.C. Child and Family Services Agency (CFSA) to maintain an accurate database tracking all children found by the Family Division of the District of Columbia Superior Court to be abused or neglected and who is in the custody of the District of Columbia—including any child with the goal of adoption or who is legally free for adoption. Unfortunately, this basic step has been neglected in the past in CFSA. To meet the immediate demand of placing children in adoptive homes, the bill would also require CFSA to contract out some of its adoption functions which may include recruitment, homestudy, and placement services. Like the Kansas model, these contracts would be required to be performance-based contracts. Contractors would be compensated once specific goals, such as an adoption placement or finalization, are achieved. Finally, CFSA and contractors would be required to work together to identify and lift any barriers to timely adoptions.

I want to stress that in the end, we are talking about individual children who are in search of a permanent and secure home. Any improvement in the system translates into bringing each child closer to the fundamental need of having a loving, adoptive family.

THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT INCLUDED IN DIVISION C, TITLE IV

Mr. LIEBERMAN. Mr. President, I speak today in support of the American Competitiveness and Workforce Improvement Act, which is included in the Conference Report on H.R. 4328, the Omnibus Appropriations Act, under Division C, Title IV. The House passed this Act as H.R. 3736 on September 24. The Senate had passed the companion bill, S. 1723, on May 18. I cosponsored the Senate bill because I believe strongly that the U.S. Government's job is to make sure that U.S. industry has adequate access to the resources necessary to grow their business. Right now we have the lowest unemployment rate in 28 years. The high-tech sector, which has been the engine of growth in our economy—creating the most jobs—cannot find enough skilled workers. If U.S. industry needs more skilled workers than the U.S. labor force can provide, as the Department of Commerce has documented, then we must allow them to hire foreign skilled workers, and, as is more often the case, allow them to hire foreign graduate students educated here in the United States. These foreign workers create wealth and more jobs in this country. If we block these visas the research will go abroad.

The Semiconductor Research Corporation, founded by the U.S. semiconductor industry, supports approximately 800 graduate students each year with merit-based scholarships. Some of the students receiving grants are foreigners studying here in the United States. They told me that this year, for the first time, they have been unable to hire all of the graduate students whose research they funded, even though the students wished to remain in the United States, because they cannot get H–1B visas.

When I cosponsored S. 1723 in May, I believed it was a good bill because it not only temporarily increased the number of visas available for skilled workers, but it also set up education and training programs for Americans so that more U.S. workers will soon be eligible for these high-paying jobs in the high-tech sector. I am delighted to say that I believe the bill that emerged from the long and detailed negotiation between Senator ABRAHAM and the White House is now even better legislation. The American Competitiveness and Workforce Improvement Act increases the number of visas available for the next three years, includes funding to decrease processing time for visa applications, and funds education and training programs to increase the pool of skilled workers in the United States. For the benefit of workers, it includes substantial protections for U.S. workers, increases enforcement authority for the Department of Labor to protect workers rights, and creates additional protections for H1–B employees. These new protections will help eliminate real and/or perceived hiring practices that came under criticism and made this such a controversial visa program. Removing the opportunity for abuse of the program makes its a stronger program and broadens its base of support. This act is in the best interests of both U.S. and foreign workers and U.S. business.

The funding that is included in this act is vitally important. Too often, Congress passes legislation with the result that executive branch agencies or States are expected to provide more services and programs with less money. This act funds each of the programs it creates and the increased duties it requires of government agencies with a fee on each visa. It funds K–12 science programs. It funds scholarships in the math, science and engineering fields. And it funds training in high-tech skills.

I would like to speak in particular about the training program contained in the American Competitiveness and Workforce Improvement Act, Section 414 (c). As the chief sponsor of this provision, I want in these remarks to particularly address the intent and meaning of the provision. Section 414 (c) directs the Secretary of Labor to establish demonstration projects to provide technical skills training for workers. What makes this program unique is not just that it is targeted at technical skills, but that it will be open to both employed and unemployed workers.

Most Department of Labor training programs are solely for unemployed, displaced or disadvantaged workers. But in today's market, technology changes so quickly that no longer can people be trained in their twenties and expect to use those same skills throughout their career. American workers used to have one job for life. Now the average American will have five to ten jobs in a lifetime. Employees need to update their skills continually to remain competitive. Realistically, we must allow Department of Labor training programs to include workers who have jobs now, and want to upgrade and update their skills so they can qualify for the changing needs of industry, instead of waiting until they lose their job or become dislocated workers from a declining industry.

The United States is in the enviable situation at this time of having under 5% unemployment. The high-tech industry tells us it has as many as 190,000 unfilled jobs. This does not necessarily mean that we do not have the people to fill those jobs; it means we don't have the people who have the skills to fill

those jobs. Nearly seven out of ten employers say that the high school graduates they see are not yet ready to succeed in the workplace.

The jobs in the high-tech sector pay more than other jobs. The average wage in the high-tech sector pays 73% more than the average wage in the private sector. The average high-tech manufacturing wage is 32% higher than the U.S. manufacturing average wage. We need to help our citizens get the training they need to get these higher paying jobs.

The reality is that we have a global economy and there is, more and more, a global workforce. If companies cannot find skilled workers in the United States, they will find them in another country. This training program will help U.S. workers get the skills they need to stay competitive.

I want to explain my intent for the program established under Section 414 (c). I intend this program to be used for innovative approaches to solving our labor skills shortage; specifically, consortia and community-based programs. I intend the program to be used as a catalyst to bring small and medium sized businesses together to set up cooperative programs of skills training. I believe the best results can be gained from industry-driven programs. To have industry involved in and leading the skills training will ensure that workers are being trained for jobs that actually exist.

Ninety-nine percent of the 23 million businesses in the United States are small businesses. But, small businesses often do not have the resources to operate training programs by themselves. By joining together in consortia of other small and medium sized businesses with similar labor needs, with the Local Workforce Investment Boards established by the Workforce Investment Partnership Act signed into law this year, with community colleges, or labor organizations, or with State or local governments, small and medium sized businesses can participate in training courses that will increase the labor pool of skilled workers needed in their region.

Companies, however, do not normally cooperate in training workers. That is why the government is needed to provide the catalyst to bring companies together to cooperate on training. It is expected that the fee from the visas will generate approximately $50 million annually for the training program. It is my hope that the Secretary of Labor will consider, as she establishes these programs, requiring matching funds from the consortia. Nothing in this act precludes such matching funds. Matching funds will help ensure that the companies take an active role in the training program. The Secretary of Labor has the discretion to undertake this implementation approach. Of course, available federal funds are meant only to start the process—federal funding would end over time after which the consortia would continue the cooperative training programs alone.

Mr. President, let me give some examples of the type of program I am discussing. In the last few years, a small number of regional and industry-based training alliances in the United States have emerged, usually in partnership with state and local governments and technical colleges, that exemplify the type of program on which this provision in the manager's amendment is modeled. In Rhode Island, with help from the state's Human Resource Investment Council, regional plastics firms developed a skills alliance which then worked with a local community college to create a polymer training laboratory linked to an apprenticeship program that guarantees jobs for graduates. The Wisconsin Regional Training Partnership, a consortium of metal-working firms in conjunction with the AFL–CIO, refitted an abandoned mill with state-of-the-art manufacturing equipment to teach workers essential metal-working skills. In Washington, DC, telecommunications firms donated computers and helped set up a program to train public high school students to be computer network administrators. They then hired graduates of the program at entry-level salaries of $25,000–$30,000.

Without some kind of support to create alliances, such as created by the new provision in this act, small and medium sized firms just don't have the time or resources to collaborate on training. In fact, almost all the existing regional skills alliances report that they would not have been able to get off the ground without an independent staff entity, such as a college or labor organization, to operate the alliance. Widespread and timely deployment of these kinds of partnerships is simply not likely to happen without the incentives established by a federal initiative, which is created by this act. The training provision in the American Competitiveness and Workforce Improvement Act can help create successful new training models and templates that others can replicate across the nation.

I want to thank Senator ABRAHAM and Lee Liberman Otis and Stuart Anderson of his staff who worked tirelessly to ensure that the American Competitiveness and Workforce Improvement Act would pass the 105th Congress. I also want to thank Laureen Daly of my staff for all her dedicated efforts on this essential legislation.

We have accomplished something important for our workforce needs and for training in this legislation.

CERTIFICATION REGARDING CERTAIN IMF ASSISTANCE

Mr. CRAIG. Mr. President, I rise to commend Chairman MCCONNELL for the work he has done on the foreign operations portion of the Omnibus Appropriations bill.

The fiscal year 1999 foreign operations appropriations package is very different in size and character from the wasteful ones passed just a few years ago by liberal Congresses. It represents a sea change in the way Congress does business and a major victory for conservative, commonsense principles.

The U.S. Federal budget is now balanced—for the first time since 1969. This is the most positive economic policy development in the world today. There is room within that balanced budget for a limited, responsible program of foreign operations.

The chairman's work in this bill advances U.S. leadership and protects our national security, our economic interests, and American jobs, in a rapidly changing world.

For example, the way this bill deals with the International Monetary Fund is not the same old way of doing business.

This bill imposes new, tough standards of accountability and transparency on the IMF. If American taxpayers are going to invest in the IMF, hoping it will produce a more stable world economy, they should be able to see where their money is going.

I know that has been an important priority for Chairman MCCONNELL, as it has been for me.

I want to thank the chairman in particular for his support and assistance in making sure the final version of this bill included a provision we have worked on since the beginning of this year.

This provision covers autos, textiles and apparel, steel, and shipbuilding, as well as semiconductors. It is of extreme importance to the thousands of workers at Micron, an Idaho company that manufactures computer chips and is a world leader in semiconductor technology. This provision will safeguard many American jobs and is the result of bipartisan efforts.

This provision directs the Secretary of the Treasury to instruct the U.S. Executive Director at the IMF to exert the influence of the United States to oppose further disbursement of funds to the Republic of Korea unless the Secretary has given a certification that IMF funds are not being used to subsidize industries with a history of committing unfair trade practices against American companies and workers.

It is my understanding that the use of the term, ''exert the influence of the United States'' places a very high obligation on our Secretary of the Treasury and Executive Director to use all the means necessary to oppose disbursement of funds unless such certification has been given.

This effort needs to be persistent and comprehensive, at all levels, in order to achieve the desired result. It includes the use of the voice and vote of the United States at the IMF. This language also constitutes a commitment by the Secretary of the Treasury to the Congress to see that the influence of the United States is exerted in all respects.

I've spoken with the Secretary about this matter. It's characteristic of administration agencies and officials to

prefer having broad latitude and not being given such specific direction in legislation. However, I believe the substance of this provision is consistent with the Secretary's own intentions. The final language is the product of negotiation with the Administration.

Mr. MCCONNELL. I would concur with the Senator's interpretation of the effect of this provision. This provision creates an ongoing and overarching commitment. Accompanying report language should reassure the people of South Korea that our friendship for them remains strong, and that we are simply seeking to promote honest, open markets and fair competition.

Mr. KYL. Mr. President, while many parts of this bill concern me, the part that I am very proud of is a provision known as the Drug-Free Workplace Act of 1998. It has been my pleasure to have worked with Senator COVERDELL and I commend him for guiding the drug-free workplace bill through the Small Business Committee with a unanimous bipartisan vote. I would also like to thank Representatives PORTMAN, BISHOP, and SOUDER for their work in passing this important anti-drug legislation out of the House.

The Drug-Free Workplace Act of 1998 is an excellent example of how the federal government can work to encourage drug-free workplaces without placing heavy-handed mandates on businesses. It fosters partnerships between small businesses and organizations which have at least two years experience in carrying out drug-free workplace programs. It also will educate and encourage small businesses about the advantages of implementing drug-free workplace programs.

Small businesses often feel they lack the money or the expertise to implement drug testing programs. That is why the drug-free workplace bill performs such a worthwhile function. Many small firms would like to start drug testing programs but don't have the ability to overcome the start up costs. This anti-drug measure provides resources to assist and educate employers who want the help in implementing drug-free workplace programs.

As we all know, the American workforce is the main catalyst behind the tremendous economy that we are enjoying today. It is absolutely integral to a country's economic well being that it have a competent, able workforce. Our ability to maintain the high achievements of this workforce hinges largely on our ability to keep drugs out of the workplace.

Drug use can take a tremendous toll. For example, 70% of drug users are employed. Employees who use drugs: Have greater absenteeism; have increased use of health services and insurance benefits; have increased risk of accidents; and have decreased productivity.

The costs of drug use are not only confined to the user, just consider these disturbing statistics: Nearly half of all industrial accidents in the United States are related to drugs or alcohol; and drug and alcohol abusers file five times as many workman's compensation claims as non-abusers, and require 300 percent greater medical benefits.

Businesses need help dealing with the problem of drug use—especially small businesses. Thomas Donohue of the U.S. Chamber of Commerce testified before the House Subcommittee on Empowerment that a large impediment in the implementation of drug programs is the perceived costs and problems with the actual initiation of the programs.

The Drug-Free Workplace Act is fair to everyone. It's fair for the workers who are put at risk by their colleagues' drug abuse. It's fair to businesses, because it gives them the tools they need, but only if they want them. it's also fair to society, which ultimately foots the costly bill that drug abuse brings.

Mr. KERRY. Mr. President, I would ask my distinguished colleague and Chairman of the Committee on Finance for his attention with regard to a matter of some concern to the Savings Bank Life Insurance (SBLI) organizations in Massachusetts, New York, and Connecticut, as well as their operations in New Hampshire and Rhode Island.

As the Chairman knows, we had hoped this year, after a long consideration of the matter, to act on a proposal that would clarify the tax consequences of a state-mandated consolidation of an SBLI organization in which required payments to policyholders are made over a period of years. Under the current Internal Revenue Service (IRS) interpretation, such payments would be non-deductible redemptions of equity. After considerable effort, we believe we have succeeded in demonstrating that such an interpretation is incorrect. Of necessity, however, it appears that a statutory clarification will be required, and, unfortunately, it does not appear possible this year to consider this kind of matter in a tax measure.

SBLI entities and policyholders retain unique, long-recognized characteristics regarding voting rights and rights to surplus which set them apart from other insurance companies and policyholders and which form the basis for the needed clarification. The provision we had hoped would be considered this year would clarify that the Internal Revenue Code should treat additional policyholder dividends as deductible when mandated by state law.

While only the Massachusetts SBLI is immediately affected, the sister entities in New York and Connecticut could be adversely affected if the appropriate clarification is not made. Unfortunately, if we are unable to accomplish our objective soon, SBLI and its policyholders throughout New York and the New England region will be subjected to a tax inequity which will be unnecessarily passed on to the consumer. It is important to note that the Treasury Department again this year reiterated that it does not oppose this clarification.

I would observe that several of my colleagues including Senators KENNEDY, MOYNIHAN, D'AMATO, DODD, LIEBERMAN, GREGG, SMITH, CHAFEE, and REED have indicated their support in correspondence with our distinguished Finance Committee Chairman.

I respectfully ask the Finance Committee to consider this important measure in the context of comprehensive tax legislation next year.

Mr. ROTH. I thank my colleague from Massachusetts. I am well aware of your interest in this amendment, as well as the continued interest of the Senators from New York, New Hampshire, Connecticut and Rhode Island. The Senator raises important issues with regard to the uniqueness of such state-mandated payments. Unfortunately, as you know, we were not able to take up such issues during the 105th Congress. It would be my intention, though, to address this and other tax matters at the next available opportunity.

Mr. CRAIG. Mr. President, I rise to commend the leadership and the members of the Appropriations Committee for their hard work on this bill. They had to make hard decisions about scarce resources and have labored to do so fairly. I also appreciate the efforts to make sure the taxpayers hard-earned dollars are spent effectively and efficiently. While there are several provisions within this bill which I wholeheartedly support, I do not agree with every provision of this bill.

As you all may be aware, section 315 of the Interior portion of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 authorized the Recreational Fee Demonstration program. The Recreational Fee Demonstration Program is currently scheduled to expire on September 30, 1999. Language from the House Fiscal Year 1999 Interior and Related Agencies Appropriations Act to extend this demonstration program an additional two years (to the year 2001) has been included in the FY1999 Omnibus Consolidated Appropriations Act. I worked to keep similar language out of the Senate Interior appropriations bill and was disappointed to see the House language prevail in the final omnibus bill.

The issue here is that the House action was premature. I am not totally opposed to a fee demonstration program. In fact, when Congress authorized the Recreation Fee Demonstration Program in 1996, I voted in support of this legislation and have been a proponent of user-based fees. I believe that the program, in concept, has merits. I envisioned this demonstration program as having the potential to improve the condition and recreation services of public lands by making more financial resources available to areas that are used the most heavily, based on a modest fee allocated to those directly benefitting from the enjoyment of those lands. Recreation is important in

Idaho. Because 63 percent of our state is managed by the federal government, a majority of this recreation must take place on the public lands. In some of our premier areas the resource is being loved to death. Appropriated budgets will not see future large increases in recreation programs even though these areas will undoubtedly continue to be a popular local, and tourist, attraction.

As a member of the Senate Committee on Energy and Natural Resources, the authorizing committee with legislative jurisdiction over the fee demonstration program, as well as the chairman of the subcommittee of jurisdiction, I am committed to thorough oversight of this program with an eye toward consideration of any appropriate legislation to improve, continue, or terminate it depending on the information we gather and the experiences of the agencies.

On June 11, 1998, the Energy and Natural Resources Committee held an oversight hearing on the program's first full year of implementation. Valuable information was gathered from the agencies administering the programs and the users of the resource. We will continue to monitor this program during the next two years. A thorough review of the program, with answers to some serious questions, must be completed before extending the recreation fee demonstration program. Then we can accurately assess the merits and problems and decide how to continue. However, considering this issue settled at this early date will only lessen the authorizing committee's responsibility to evaluate the program and make any improvements that are warranted. We should act after, not before, this demonstration program has had a chance to demonstrate.

While I voted in favor of this bill for continuing necessary programs, some provisions, such as a premature extension of the recreation demonstration program, are not something I agree with or support. If more time is needed to test the fee demonstration project, it would have been more appropriate to extend the program nearer the end of three-year period rather than after only the first full year of the program. However, I will continue aggressive oversight of this program in an effort to improve it and possibly end it in areas where it clearly is not working.

Mr. BIDEN. Mr. President, included within this omnibus appropriations bill are two important pieces of legislation related to foreign policy. The first, produced on a bipartisan basis in the Foreign Relations Committee, is the ''Foreign Affairs Reform and Restructuring Act,'' which involves the institutional structure of, and funding for, the foreign affairs agencies of the U.S. government. The second bill is legislation necessary to implement the Chemical Weapons Convention, a treaty approved by the Senate in April 1997.

The Foreign Affairs Reform and Restructuring Act is not perfect, and unfortunately it differs in one critical respect from the original bill approved by the Senate 16 months ago. I say ''unfortunately'' because this bill does not contain a single dime for our UN arrears. Last year, Chairman HELMS and I agreed on a proposal to authorize the payment of $926 million in arrears to the United Nations, conditioned on a series of reforms in that body. The Senate approved the Helms-Biden legislation twice in 1997, first by a vote of 90–5 in June, then by a voice vote in November.

The obstacle to making good on our commitments to the United Nations? A small minority of members in the other body, who have insisted that our arrears payments to the United Nations should be held hostage to an unrelated issue regarding family planning. The specific provision—the so-called Mexico City amendment —would require the withholding of funds from foreign, non-governmental organizations which use their own funds to perform abortions or discuss the issue with foreign governments. The President has indicated on several occasions that he will veto any bill presented to him that contains the Mexico City language. Nonetheless, a handful of obstructionists in the other body march steadily ahead, determined to undermine U.S. foreign policy interests in order to advance their unrelated cause.

I deeply regret such irresponsible action by the other body, but it is emblematic of the reckless disregard that many in that body have for the important responsibilities the United States has as the world s leading superpower.

In the past few weeks, the Chairman and I attempted to include a $200 million down payment on our UN arrears, which would have been linked to certain of the conditions in the Helms-Biden legislation. But even this limited payment of our arrears proved to be too much for the members in the other body who have taken American foreign policy hostage.

It is essential that we find a way to repay our arrears next year. For better or for worse, the United Nations is a valuable means to advance our foreign policy and security interests around the world, by providing a forum for improved cooperation with other states and by allowing us, in some instances, to share the burdens and costs of world leadership.

Our status as a deadbeat is unquestionably hurting our interests, not only at the UN but with our leading allies—many of whom are owed money by the UN for peacekeeping operations they undertook, but for which we have not yet paid. The cost to our interests cannot be measured with precision, but the resentment against the United States for its failure to pay its back dues is having a corrosive effect on our agenda at the UN and elsewhere. It is bordering on scandalous that a big nation like ours, blessed with abundant wealth, has failed to pay its bills on time.

Next year, the President is expected to nominate Richard Holbrooke to be our representative to the United Nations. Ambassador Holbrooke's nomination offers us a chance for a fresh start in the negotiations on UN arrears and reforms. Mr. Holbrooke is one of the most creative diplomats and negotiators of our time, and I am confident he will bring fresh insights and endless energy to this important issue. I am also hopeful that the Chairman remains committed to trying to move legislation in the next Congress to repay the full amount agreed to last year in our negotiations.

Let me turn now to the provisions of the Foreign Affairs Reform and Restructuring Act that are contained in the omnibus bill. Much of the legislative history of bill is set forth in the conference report to H.R. 1757, which was approved by both houses last spring. But I would like to take a few minutes to summarize the bill and highlight several issues.

First, the legislation before us establishes a framework for the reorganization of the U.S. foreign policy agencies which is consistent with the plan announced by the President in April 1997. After several years of debate, last year the President agreed to the abolishment of two foreign affairs agencies, and their merger into the State Department. The first agency to be abolished will be the Arms Control and Disarmament Agency (ACDA), which will be merged into the State Department no later than April 1, 1999; the U.S. Information Agency (USIA) will follow no later than October 1, 1999. As with the President s plan, the Agency for International Development (AID) will remain a separate agency, but it will be placed under the direct authority of the Secretary of State. And, consistent with the President s proposal to seek improved coordination between the regional bureaus in the State Department and AID, the Secretary of State will have the authority to provide overall coordination of assistance policy.

The integration of ACDA and USIA into the State Department is not intended to signal the demise of the important functions now performed by these agencies. On the contrary, their merger into the Department is designed to ensure that the arms control and public diplomacy functions are key elements of American diplomacy.

In that regard, the bill establishes in law two new positions in the State Department, an Under Secretary of State for Arms Control and International Security, and an Under Secretary of State for Public Diplomacy. These senior officers will have primary responsibility for assisting the Secretary and Deputy Secretary of State in the formation and implementation of U.S. policy on these matters.

It is expected that the officials who will be named to these positions will be submitted to the Senate for advice and consent. The conference committee on H.R. 1757 rejected a proposal by the Executive Branch to seek authority to

place officials who are now in analogous positions in these newly-created positions.

One issue of particular concern regarding ACDA in the reorganization is the need to maintain the highest standards of competence and objectivity in the analysis of compliance with arms control and non-proliferation agreements. As the Foreign Relations Committee stated in its report last year, it is vital ''that the Under Secretary be able to call upon expert personnel in these areas who will not feel obligated to downplay verification or compliance issues because of any potential impact of such issues upon overall U.S. relations with another country.'' Chairman HELMS and I have urged the Secretary of State to find a way to make the official for compliance a Senate-confirmed, Presidential appointee.

The bill puts flesh on the bones of the President's plan with regard to international broadcasting. The President's proposal was virtually silent on this question, stating only that the ''distinctiveness and editorial integrity of the Voice of America and the broadcasting agencies would be preserved.'' The bill upholds and protects that principle by maintaining the existing government structure established by Congress in 1994 in consolidating all U.S. government-sponsored broadcasting—the Voice of America, Radio and TV Marti, Radio Free Europe/Radio Liberty, Radio Free Asia, and Worldnet TV—under the supervision of one oversight board known as the Broadcasting Board of Governors. Importantly, however, the Board and the broadcasters below them will not be merged into the State Department, where their journalistic integrity would be greatly at risk. Instead, the Broadcasting Board will be an independent federal entity within the Executive Branch. The Secretary of State will have a seat on the board, just as the Director of the USIA does now.

Second, the bill authorizes important funding for our diplomatic readiness, which has been severely hampered in recent years by deep reductions in the foreign affairs budget. This Congress has stopped the hemorrhaging in the foreign affairs budget, but I believe that funding for international programs remains inadequate, given our responsibilities as a great power.

Although the Cold War has ended, the need for American leadership in world affairs has not. Our diplomats represent the front line of our national defense; with the downsizing of the U.S. military presence overseas, the maintenance of a robust and effective diplomatic capability has become all the more important. Despite the reduction in our military readiness abroad, the increased importance of diplomatic readiness to our nation s security has not been reflected in the federal budget.

Significantly, this omnibus appropriations bill contains the emergency funding requested by the Administration for embassy security. The bombings of the U.S. embassies in East Africa in August demonstrate that many of our missions overseas remain highly vulnerable to terrorist attack; it is imperative that we provide the State Department the resources necessary to protect our employees serving overseas. We should understand, however, that the urgent funding in this bill is just the beginning of a long-term program to enhance security at embassies around the globe.

I am especially pleased that the Chemical Weapons Convention Implementation Act is also incorporated in the omnibus spending bill. The Senate passed this legislation unanimously in May of 1997, and we have waited since then for the leadership of the other body to accept that complying with our international commitments is a requirement, rather than a political football. The enactment of this measure will enable the United States to file the comprehensive data declarations required by the Convention, and therefore to demand that other countries' declarations be complete. The United States will now be able to accept inspections of private facilities, and therefore to request challenge inspections of suspected illegal facilities in foreign countries. The United States will finally be able also to protect confidential business information, acquired in declarations or on-site inspections, from release under the Freedom of Information Act. After nearly 17 months of waiting, it is about time.

In closing, I want to pay tribute to Chairman HELMS for his continued good faith and cooperation throughout the last two years on these and other issues. He has been the driving force behind the legislation to reorganize the foreign affairs agencies, and I congratulate him for his achievement. I also want to thank our colleagues in the other body, particularly the ranking member of the Committee on International Relations, LEE HAMILTON, who is retiring this year after over three decades of noble service to his district in Indiana and to the American people. We wish him well as he moves on to new challenges.

Mr. President, I want to reiterate that we are leaving important unfinished business—the payment of our back dues to the United Nations. It must be at the top of our agenda in the next Congress. I look forward to working with the Chairman and the Secretary of State to find a way to finish the job.

ALTERNATIVE FUEL TAX CREDITS

Mr. BURNS. Mr. President, I would like to clarify the intent of Congress regarding tax incentives for alternative fuels. These incentives are important tools for our nation's long-term energy policy.

Starting with the energy crisis in the 1970s, Congress has acted on numerous occasions to provide tax credits intended to develop alternative fuels. Prior Congresses took these steps in recognition of the need to encourage the development and use of alternative fuels which promise that we as a nation will never be dependent on others for our energy resources. For example, Section 29, which expired earlier this year, and Section 45, which is due to expire next June, were both intended to encourage the development of nonconventional fuels.

Today, our nation not only needs to continue its efforts to develop alternative fuel resources, but given our ever growing energy requirements, we must consider the environmental impact that conventional and nonconventional fuels have on our environment, particularly in light of the Clean Air Act.

In order to maximize the most efficient use of our nation's resources, Congress needs to commit to the development of clean alternative fuels. We need also to use our nation's technologies to develop environmentally clean alternative liquid fuels from coal.

In Montana, we have vast coal reserves. There are technologies that can upgrade the coal from these reserves and reduce current difficulties associated with the development of these fields. However, these technologies are not likely to be developed, and therefore these vast natural resources are not likely to be used, unless Congress provides incentives to develop clean alternative fuels.

I am concerned that we have not been able to fully discuss the merits of such incentives in our budget debate this past month. For example, an extension of Section 29 was included in the Senate version of the tax extenders, but that provision was not included in the final package.

I would urge my colleagues to bring this debate to the floor in the 106th Congress to ensure that the issue of encouraging the development of clean alternative fuels is a priority in our nation's energy policy.

Mr. LOTT. I agree with my colleague from Montana. As our nation continues to seek ways to improve environmental quality and to reduce the need for imported energy, several new technologies run the risk of not being developed if Congress does not act to provide incentives to develop clean alternative fuels.

These technologies provide two significant benefits to our nation. First, the use of alternative fuels reduces our reliance on foreign energy sources. Second, the technologies provide cleaner results for our environment.

For these reasons, I want to assure my colleague from Montana that I will make a priority of addressing the need for tax incentives to produce clean alternative fuels.

Mr. GRASSLEY. I agree with my colleagues from Montana and Mississippi about this very important issue. The development and use of alternative fuels are important to this nation, and

we must encourage their use and development.

Wind energy has long been recognized as an abundant potential source of electric power. A detailed analysis by the Department of Energy's Pacific Northwest Laboratory in 1991 estimated the energy potential of the U.S. wind resource at 10.8 trillion kilowatt hours annually, or more than three times total current U.S. electricity consumption. Wind energy is a clean resource that produces electricity with virtually no carbon dioxide emissions. There is nothing limited or controversial about this source of energy. Americans need only to make the necessary investments in order to capture it for power.

The Production Tax Credit, section 45 of the Internal Revenue Code was enacted as part of the Energy Policy Act of 1992. This tax credit is a sound low-cost investment in an emerging sector of the energy industry. I introduced the first bill that contained this tax credit, so you can be sure that I am sincere in my belief in the need to develop this resource. This tax credit currently provides a 1.5 cent per kilowatt hour credit for energy produced from a new facility brought on-line after December 31, 1993 and before July 1, 1999 for the first ten years of the facility's existence. Last Fall, I introduced a bill to extend this tax credit for five years. My legislation, S. 1459, currently has 22 cosponsors, including half of the Finance Committee. The House companion legislation, introduced by Congressman THOMAS, currently has 90 cosponsors, including over half of the Ways and Means Committee. These numbers are a strong testament to the importance of the section 45, and renewable fuels in general.

In addition, I plan to work to expand this tax credit to allow use of the closed-loop biomass portion of this tax credit. Switchgrass from my state and other Midwestern states, eucalyptus from the South, and other biomass, can be grown for the exclusive purpose of producing energy. This is a productive use of our land, and will be an important step in our use and development of alternative and renewable fuels.

I was very pleased to see that Congress expressed its understanding of the importance of alternative and renewable fuels by extending the ethanol tax credit in this year's T–2 legislation. These tax credits are a successful way of promoting alternative sources of energy. These tax credits are a cheap investment with high returns for ourselves, our children, our grandchildren and even their grandchildren. Congress needs to again pass this important legislation to ensure that these energy tax credits are extended into the next century.

Mr. MURKOWSKI. I concur with my colleagues. Implementation of the 1990 Clean Air Act amendments is creating a real need to develop clean alternative fuels.

For example, of the 64 remaining U.S. coke batteries, 58 are subject to closure as a result of the Clean Air Act. The steel industry can either use limited capital to build new clean coking facilities or they can choose to import coke from China, which uses 50 year old highly pollutant technologies. Restoring the Section 29 credit to encourage cleaner coker technologies will greatly reduce emissions and will slow our increasing dependence on foreign coke, at the same time creating jobs in the United States in both the steel and coal mining industries.

In addition, the United States has rich deposits of lignite and sub-bituminous coals. There are new technologies that can upgrade these coals to make them burn efficiently and economically, while at the same time significantly reducing air pollution.

This is proven technology, but to make the development of this technology throughout the nation feasible, the Congress needs to provide tax incentives.

Mr. ENZI. The people of Wyoming have always had very strong ties to our land. That is why the words ''Livestock, Oil, Grain and Mines'' appear on our state seal. Those words clearly reflect the importance of our natural resources to the people of my state, and our commitment to using our abundant natural resources wisely and for the benefit of current and future generations of Wyomingites and the people of this country.

Congress has determined the need to find newer and cleaner technologies. Wyoming is blessed with an abundance of clean burning coal reserves. It would seem to be a perfect match. We are eager to provide what is needed for our country's present and future fuel needs. But those reserves aren't likely to be developed unless we provide the incentives necessary to make it possible for the coal to be harvested in a safe and environmentally friendly manner.

Mr. ABRAHAM. I concur with my colleagues. The development and production of alternative fuels provides a real opportunity for the country to improve the environment while ensuring a constant, reasonably priced fuel supply. But recent efforts to provide such assurances have been hampered. For example, in the Small Business Job Protection Act of 1996, Congress extended the placed-in-service date for facilities producing synthetic fuels from coal, and gas from biomass for eighteen months.

However, progress in bringing certain facilities up to full production has been hampered by the Administration's 1997 proposal to shorten the placed-in-service date and because, in many cases, the technology used to produce the fuels is new. Such delays have created uncertainty regarding the facilities eligibility under the placed-in-service requirement of Section 29

While it is important that the Congress consider again this issue in the 106th Congress, I would also urge the Secretary to consider the facilities I mentioned qualified under Section 29 if they met the Service's criteria for placed-in-service by June 30, 1998 whether or not such facilities were consistently producing commercial quantities of marketable products on a daily basis.

Mr. CONRAD. I agree with my colleagues. Through the section 29 tax credit for nonconventional fuels, Congress has supported the development of environmentally friendly fuels from domestic biomass and coal resources. There are lignite resources in my state that could compete in the energy marketplace if we can find a reasonable incentive for the investment in the necessary technology. As soon as possible in the 106th Congress, I hope we will give this crucial subject the attention it deserves.

Mr. HATCH. I concur with my colleagues. This is a very important tax credit for alternative fuels. It is an issue of fairness, not one of corporate welfare.

Earlier this year I, along with 18 of my colleagues, introduced a bill that would extend for eight months the placed-in-service date for coal and biomass facilities. The need still exists to extend this date and I am very disappointed that this was not included.

Mr. BAUCUS. Mr. President, I want to join my colleagues in supporting tax incentives for alternative fuels. Our country has assumed a leadership role in the reduction of greenhouse gases because of the global importance of pollution reduction. As my colleagues have also pointed out, promotion of alternative fuels is not just an environmental issue, but an issue important to our domestic economy and independence as well. We cannot afford to slip back toward policies which will leave us dependent upon foreign sources of oil for our economic growth.

With the huge reserves of coal and lignite in the United States and around the world, as well as the tremendous potential for use of biomass, wind energy, and other alternatives, it is particularly important to our economy and the world's environment that new, more environmentally friendly fuels are brought to market here and in developing nations.

But bringing new technologies to market is financially risky. In particular, finding investors to take a new technology from the laboratory to the market is difficult because so many technical problems need full-scale testing and operations to resolve. Few investors are prepared to take on the risks associated with bringing a first-of-a-kind, full-sized alternative energy production facility on-line without some level of security provided by a partnership with the federal government.

Tax incentives represent our government's willingness to work with the private sector as a partner to bring new, clean energy technologies to the market. These incentives demonstrate our country's commitment to the future.

Mr. GRAHAM. There are two principle reasons I support extension of Section 29 and 45. First, in a period where America is continuing to increase its dependence on foreign oil, we need to develop alternative fuel technologies to prepare for the day when foreign supply of oil is reduced. These tax credits have spurred the production of fuel from sources as diverse as biomass, coal, and wind. America will desperately need fuel from these domestic sources when foreign producers reduce imports.

Second, the alternative fuels that earn these tax credits are clean fuels. For example, the capture and reuse of landfill methane prevents the methane from escaping into the atmosphere. I will support my colleagues in an effort next year to extend these provisions.

Mr. THURMOND. I join my colleagues in support of extending the tax credit for Fuel Production from Nonconventional Sources. Through this credit, Congress has emphasized the importance of establishing alternative energy sources, furthering economic development, and protecting the environment. The alternative fuels credit strikes a proper balance between each of these objectives. I support efforts to bring this issue to a satisfactory conclusion, early in the next Congress.

Mr. THOMAS. I strongly agree with my colleagues regarding the importance of the Section 29 tax credit. Wyoming has some of the nation's largest coal reserves and this tax credit gives producers an incentive to develop new and innovative technologies for the use of coal. I am disappointed that an extension of the Section 29 tax credit was not included in the Omnibus Appropriations package and urge my colleagues to make this matter a top priority during the 106th Congress.

Mr. ROTH. I understand my colleagues' concerns. For some time now I have been studying how to provide targeted incentives to develop clean alternative fuels. It is essential for Congress to develop sound tax policy for alternative energy to help protect our environment. Several weeks ago, I introduced legislation to provide such incentives for facilities that produce energy from poultry waste. I look forward to working with my colleagues on these issues early in the 106th Congress.

PERMANENT RESEARCH CREDIT

Mr. BINGAMAN. Mr. President, I would like to thank the distinguished chairman and ranking member of the Committee on Finance for their continuing work on the research and experimentation tax credit, which is extended through June of 1999 by this legislation. In my capacity as ranking member of the Joint Economic Committee, I have taken a strong personal interest in the research credit and how it can be made into an effective permanent incentive. It is potentially the most important incentive in our tax code for stimulating long-term economic growth, and I believe that we need to make every effort in the upcoming session of Congress to establish a permanent credit for research and development.

In the course of these efforts, we need to keep in mind the substantive issues that are intrinsic to the goal, shared by many of my colleagues, of a permanent effective R&D tax policy. Can we make the credit more equitable, to give all R&D-performing firms incentives to increase their R&D? Can it be made more effective for the industries that have historically invested heavily in research and development? Can it be made more accessible by small businesses, which are a growing sector of our nation's R&D and promise to be a leading source of high-wage job growth? And can it further encourage research partnerships—crossing the institutional boundaries of industry, universities, and public-benefit consortia—that lay the groundwork for our future technology and medicine through long-term R&D investments?

In the negotiations of the past few weeks, Congress came alarmingly close to not extending the credit at all. I am concerned that until we address the substantive issues outlined above, the R&D credit is likely to continue to teeter along in its current state of uncertainty, and that under its current structure it will perform less and less effectively, as an incentive and as an economic stimulus. I am joined in these concerns by economists who have studied the credit and by senior leaders of R&D-intensive corporations. As the distinguished chairman and ranking member know, I and other Senators have introduced legislation to address these issues in this Congress. Obviously, time does not permit us to address these issues at this point, but I would ask them whether they would be willing to have the Committee on Finance consider these issues in the next Congress, in preparation for further legislative action on the credit?

Mr. ROTH. I welcome the suggestion made by the Senator from New Mexico. I believe that the issues that the raises are important ones, and that his suggestions for comprehensive improvements are worthy of further consideration by the Committee. I am aware that several of our other colleagues, including Senators DOMENICI, HATCH, and BAUCUS, are also keenly interested in the future of the credit, and I look forward to working with all of our colleagues who are interested in these issues in the next Congress.

Mr. MOYNIHAN. I would agree with the chairman of the Committee that the issues raised by the Senator from New Mexico deserve further attention next year, and would also welcome the opportunity to work with him and with my other colleagues.

Mr. BINGAMAN. I thank the chairman and ranking member.

DEGRADATION OF SERVICE AT WILLISTON OFFICE NATIONAL WEATHER SERVICE

Mr. DORGAN. I would like to inquire of the distinguished Chairman of the Commerce, Justice, State Appropriations Subcommittee, Mr. GREGG, as to the intent of language in the FY99 conference report on National Weather Service operations at Williston, North Dakota.

Mr. GREGG. The conference report includes language which directs the Secretary of Commerce to ensure continuation of weather service coverage for the communities of Williston, North Dakota; Caribou, Maine; Erie, Pennsylvania; and Key West, Florida.

Further, the Conference provides full funding to the NWS for continued, effective operations at Williston and the other Weather Service offices mentioned.

Mr. DORGAN. I thank the Subcommittee Chairman for his commitment to this provision in the bill. The Commerce Secretary has agreed that closing the Williston weather station would amount to a degradation of weather service. It is critical, therefore, that Congress send a strong signal that the station at Williston be kept fully operational.

Mr. GREGG. I will tell the Senator from North Dakota that it is the intent of the conferees that the National Weather Service maintain operations at Williston and the other sites, and further that the NWS take no actions which would suggest an intent to close these offices. Any actions taken towards closure of these offices will signal to the Congress that there will be a resulting degradation of service.

Mr. DORGAN. Is it correct to say that the fact that specific funds are being provided to the National Weather Service to maintain operations at the offices which were identified in the 1995 Secretary's report signals that the Congress expects these offices to continue and that the NWS ought not to be taking any actions that would suggest that these offices will be closed?

Mr. GREGG. Yes, that is correct. We believe that with respect to these specific offices, including Williston, North Dakota, the NWS modernization plan has not sufficiently demonstrated that service will not be degraded without these offices. The Congress does not want the NWS to close these offices at this time and we are providing specific appropriations to ensure their continued operations. I would also add that we expect the NWS to use these additional funds to develop the appropriate systems to address the unique weather coverage shortfalls that exist for these specific communities.

I realize that the most difficult problem for Williston, North Dakota is the absence of local radar coverage at low altitudes. We expect that the NWS will use these funds and work cooperatively with the local residents in Williston to mitigate that concern.

REGISTRATION OF CONTAINER CHASSIS

Ms. SNOWE. Mr. President, I would like to explain section 109 of Division C regarding the registration of container chassis. This section addresses the application of registration fees to trailers

used exclusively for the purpose of transporting ocean shipping containers, which the Section refers to as ''container chassis.''

The section provides that a State, such as California, that requires annual registration and apportioned fees for container chassis may not limit the operation, or require the registration in the State, of a container chassis registered in another State, if the container chassis is operating under a trip permit issued by the non-registration State. Further, the non-registration State may not impose fines or penalties on the operation of such a container chassis for being operated in the non-registration State without a registration issued by that State. For example, the Attorney General of California or any other person in California, may not seek to impose fines or penalties from companies operating container chassis in California, when the container chassis are registered in another state such as Maine or Tennessee.

Further, under this language, a State that requires annual registration of container chassis and apportionment of fees for such registration may not deny the use of trip permits for the operation in the State of a container chassis that is registered under the laws of another State. A trip permit provides for a daily use fee that is the prorated annual registration fees for the vehicle. Under the section, a trip permit is required only on days when the container chassis is actually operating on the State's roads and not, for example, when it remains at an ocean terminal for the entire day.

This section also provides that a State, political subdivision or person may not, with respect to a container chassis registered in another State, impose or collect any fee, penalty, fine, or other form of damages which is based in whole or in part on the nonpayment of a State's registration related fees attributable to a container chassis operated in the State before the date of enactment of this section unless it is shown by the State, political subdivision or person that the container chassis was operated in the State without a trip permit issued by the State.

This provision is intended to prevent the imposition of any liability on this basis for the current and past practice of many companies in the container shipping industry which register chassis in one State and operate them in another State under trip permits issued by the non-registration State. The provision is intended to ensure that past and current practices which are consistent with the objectives of this section will not be the basis for the imposition of fees, penalties, fines or other forms of damages on this segment of the Nation's intermodal transportation system.

Using the congressional power to regulate interstate commerce, this section is intended to facilitate movement of containerized cargo in interstate commerce and to remove an unreasonable impediment to interstate commerce. It simplifies and rationalizes registration requirements for this critically important segment of the Nation's interstate intermodal transportation system.

It is important to note that extensive discussion and consideration was given to this section. Members from the Senate Commerce Committee, Appropriations Committee, and the House Appropriations and the House Transportation and Infrastructure Committee worked on this language and came to the conclusion that it is necessary. It is clearly the intent of both Chambers of Congress that States, such as California and others, which want to limit the operation of chassis that are not registered in their State, are prohibited from doing so. Further, it is clearly the intent of both Chambers of Congress that States, such as California and others, are prohibited from collecting fines or penalties from companies which register chassis in another State and operate under a trip permit issued by the State where the chassis is operated.

Mr. LEVIN. Mr. President, Yogi Berra, explaining the difficulty of playing in the afternoon sun and shadows of Yankee Stadium's notorious left field is reported to have commented, ''It gets late early.'' We have before the Senate a huge Omnibus Appropriations and Emergency Supplemental bill which spends more than $486 billion and legislates across a broad range of issues of great importance. We are faced now with this massive, sweeping legislation because the 105th Congress did not do its work. In the 105th Congress, it got late early.

From the very outset of this Congress, the majority leadership set a slow pace and avoided fully addressing the major issues before the Nation. The 105th Congress failed to reform our campaign finance laws, failed even to debate a patient's bill of rights, failed to act on legislation to reduce tobacco use by our young people, failed to even to take up serious regulatory reform, and failed to address the problems looming in the future of Social Security. In fact, this Congress, failed, this year to even meet its responsibility, under law, to pass a budget, the first time this has occurred. And, it failed to complete work on 8 of the 13 appropriations bills required to run the government. Two appropriations bills were never even debated by the Senate and a third was never passed. On top of that dozens of legislative proposals were added to this bill which were never debated and considered in the Senate.

The failure to pass the appropriations bills, as required, prior to end of the fiscal year on October 1, led directly to the process that confronts us with this monster Omnibus Appropriations bill today, a four thousand plus page bill which we were unable to even begin reading until yesterday.

The Founders of our Nation envisioned a careful contemplative legislative process which divided power and sought to assure that the people would be well represented. The process which we have recently witnessed was hardly that. It was a closed process, which greatly excluded Democrats in the House and Senate, enhancing the powers of the Republican leaders of the House and Senate and in an extra-Constitutional fashion bringing the President into a legislative role. Where the Congress was more fully represented, its representation was limited to the members and leaders of the Appropriations Committees of the House and Senate. This, despite the fact that legislation was included affecting the jurisdictions of many, if not all, of the authorizing committees. And then, the entire package was lumped together and dumped here on the Senate floor on a take it or leave it basis. Senators have no opportunity to attempt to amend this product, merely to vote yes or no. Never before in my memory have we been confronted with appropriations bills and legislative provisions on so massive a scale which have never even been considered in either the House or Senate.

The President, and Democrats in the Congress have won some important victories in this bill. However, even as we acknowledge and applaud those victories, we must be mindful of the precedents which we set when we accept this terrible process. Congress should not abdicate its responsibilities. That is why I joined with Senators BYRD and MOYNIHAN in fighting the line-item veto in the courts, a battle which was successful and that is why I am distressed by the process which creates the bill on the floor today, an ad-hoc process at best and a process which effectively disenfranchises many Americans by short-changing their representation, at worst. And that is why, although this legislation contains many provisions of which I approve, and although I applaud the work of the Administration and Democrats in Congress in winning important provisions in this bill, I do not support this wretched process and cannot in good conscience vote for this bill.

Among the most important positive aspects of this legislation is that the bill provides additional funding for education. The President and Democrats in the Congress put forward an education package early this year. This bill finally acts on key elements of that package, providing a $1.2 billion downpayment on reducing class size by hiring new teachers across the country. In addition, the bill includes $698 million for education technology, the $260 million that the President requested for child literacy, $871 million for summer jobs, a $301 million increase for title I, $491 million for Goals 2000, and a $313 million increase for Head Start.

Unfortunately, the bill excludes the President's school modernization initiative which would have leveraged nearly $22 billion in bonds to build and renovate schools. Hopefully, we can revisit this issue in the next Congress.

The bill includes $15.6 billion for National Institutes of Health, $2 billion more than FY'98 and $859 million more than the Administration request, $700 million for Maternal and Child Health Block grant, $9.4 million more than FY98, $105 million for Healthy Start to reduce infant mortality rates, $9.5 million more than FY98, $160 million for breast and cervical cancer screening, $16.2 million over FY98, and $2.5 billion for Substance Abuse and Mental Health Services, $341 million above FY98.

Also, I am pleased that the bill contains language which is a first step toward restructuring the home health care payment system. I have been concerned about this problem for some time now. I was an original co-sponsor of Senator COLLINS' Medicare Health Equity Act of 1998 I believe the provision in the Omnibus bill will create a payment system which is somewhat more equitable than the current system. Under our current system, health care providers in Michigan have too often been penalized for prudent efficient use of Medicare resources, and that is wrong.

In addition to the nearly six billion dollars in the bill for emergency assistance to farmers who have been hurt by low prices, drought and natural disasters, it contains important money for Michigan agriculture for research on subjects from fireblight to wood utilization. There is a provision to make apple growers in West Michigan, who suffered fireblight-related tree loss in disastrous storms, eligible for the Tree Assistance Program. The bill provides the President's request for an enhanced food safety incentive, plus an increase in the National Research Initiative of $7.4 million for nutrition, food quality and health. Some of these additional funds could and should be used by the Secretary to help develop safer substitutes for pesticides that might be discontinued in implementation of the Food Quality Protection Act. Also, the agreement includes $300,000 for a study of the WIC food package nutritional guidelines finally looking at the benefits of including dried fruit in WIC cereals.

I am pleased that the bill continues a moratorium on the use of funds to increase the CAFE standard for passenger cars and light-duty trucks. Given the low-price of gasoline and the continued high consumer demand for larger, safer vehicles, which are made most efficiently by U.S. manufacturers, increasing CAFE would only harm the U.S. economy and deprive consumers.

I am disappointed funding for the National Contaminated Sediments Task Force which I requested was not included in the bill. I am concerned that this will mean that the existing uncoordinated Federal approach will continue to fail in adequately cleaning up contaminated sediments and preventing further contamination.

There will be an additional $400,000 above the President's request split between operations and acquisition at Keweenaw National Historical Park. The bill includes $800,000 for land acquisition at Sleeping Bear Dunes National Lakeshore, and $2.25 million for the final phase for acquisition of lands from the Great Lakes Fishery Trust as part of the Consumers Energy Ludington settlement.

This agreement provides the budget request for the International Joint Commission so that negotiations with the Canadians can begin in earnest to prevent the export of Great Lakes water. The bill includes $6.825 million for the Great Lakes Environmental Research Laboratory in Ann Arbor. Funds ($50,000) for a study of the erosion problems in Grand Marais Harbor are also included. Unfortunately, the bill does not include the Senate's increase of $1 million above the budget request for the Great Lakes Fishery Commission to combat the sea lamprey in St. Mary's River.

Overall, the bill provides the highest level of funding for the Federal Highway Administration in history, at $25.5 billion. That is relatively good news, though, unfortunately, the negotiators have included over $300 million in new highway money to be handed to four different states in an apparent effort to bypass the allocation formulas in TEA–21 that were the subject of much debate earlier this year.

The bill does contain $10 million for new buses and bus facilities across facilities, and $600,000 for the Capital Area Transit Authority in Lansing. And, $200,000 for a study of the viability of commuter rail in Southeastern Michigan.

As a cosponsor of legislation to delay implementation of Section 110 of the 1996 Immigration Reform bill, which was scheduled to go into effect on September 30, 1998, requiring individuals entering the U.S. at the Canadian border to complete a visa card at the point of entry and register at the time of exit, I am pleased to note that this bill contains language delaying the provision for 30 months. However, it should be repealed, not just delayed.

I am pleased that the bill does not include the House version of the Auto Salvage Title bill since the House dropped the Levin amendment which I successfully attached to the Senate bill. The House version would have preempted state laws that provide tougher consumer protection.

I am also pleased that while the bill provides funding to replenish the IMF, it will push recipient countries to liberalize trade restrictions.

Mr. President, let me take a moment to comment on the national security provisions of the omnibus bill. First, I am pleased that this legislation includes the funding the President requested for United States participation in the NATO-led peacekeeping force in Bosnia.

If Congress had not provided this emergency funding, there would have been disastrous consequences for the readiness and the morale of our forces serving in, and in support of, Bosnia. We all regret that the implementation of the civilian aspects of the Dayton Accords has not gone as fast as we hoped it would, but Congress has done the right thing by providing the necessary funding to ensure the readiness of our forces.

This legislation provides a needed $1 billion in additional readiness funding that the President requested earlier this month for equipment maintenance, spare parts, and recruiting assistance.

This omnibus bill also contains the funds requested by the President for the Korean Peninsula Energy Development Organization, also known as KEDO. This funding is crucial to continuing the Agreed Framework between the United States and North Korea. That agreement is our best hope for denuclearizing North Korea and has provided tangible security benefits to our nation.

Previous legislation would have effectively prevented the funding of KEDO, and thus given North Korea an excuse for walking away from the Agreed Framework. That could have led North Korea to produce plutonium for nuclear weapons, which would cast the Korean Peninsula into an unnecessary and dangerous crisis. This outcome is the right one.

There are many positive aspects of this legislation for our national security, but I am disappointed that so much of the ''emergency'' funding in this bill for national security programs is not for readiness and not for emergencies, but for things the Defense Department and the administration never asked for, in particular the addition of $1 billion for ballistic missile defense. Of course, that $1 billion for ballistic missile defense cannot be spent unless the President submits an emergency request for these funds. I fully expect the Administration will exercise good judgement in deciding whether or not to request these funds as an emergency.

Not only is the money added to this bill for missile defense and intelligence programs going to fund programs that the administration did not request funding for on an emergency basis, again, these are programs for which the administration did not request funding at all.

Furthermore, with regard to missile defense, adding this funding is in direct contradiction to the testimony of the Secretary of Defense and other senior officials of the Department of Defense who told the Armed Services Committee that while there was one instance in which additional funds could accelerate a program, the Navy Upper Tier program, in general the Ballistic Missile Defense Organization is proceeding as fast as it can with all our missile defense programs and their development is constrained by technology, not funding availability.

In recent testimony to the Armed Services Committee, senior defense and

military leaders told us that the National Missile Defense (NMD) program is going as fast as it can, and that adding more money will not make it go faster. Deputy Secretary of Defense John Hamre told the Committee: ''As a practical matter, we are moving as fast as we can to develop the elements of an NMD system. Even with more money, we couldn't go any faster.'' He later emphasized that ''this is as close as we can get in the Department of Defense to a Manhattan Project. We are pushing this very fast.''

During that same hearing, General Joseph Ralston, the Vice Chairman of the Joint Chiefs of Staff, told the Committee that the NMD program enjoys a unique and privileged status within the Defense Department. He said: ''I know of no other program in the Department of Defense that has had as many constraints removed in terms of oversight and reviews just so we can deploy it and develop it as quickly as possible.''

On October 6th, Secretary of Defense William Cohen testified to the Armed Services Committee that the NMD program is being developed as fast as possible and additional money will not speed it up: ''I have talked to the head of the Ballistic Missile Defense Organization and he has assured me that no amount of money will accelerate that timetable . . .'' He went on to say that ''I cannot accelerate it no matter what we do.''

So, it is clear that the Defense Department is proceeding as fast as possible to develop a National Missile Defense system, and that more money will not make this go any faster. Furthermore, the Defense Department has told us that only one program could be accelerated with more money. I would note that Congress added $120 million to the Navy Upper Tier program this year to accelerate it, cut funds from other theater missile defense programs and made no attempt in the regular legislative process to add any money for National Missile Defense. So this unrequested missile defense money cannot speed up most of the programs that are now being developed. It is not clear what it would be for, but it is clear that the Defense Department never asked for it.

A few weeks ago, the members of the Joint Chiefs of Staff were criticized by some of my colleagues on the Armed Services Committee during our hearings with them for not speaking up soon enough or forcefully enough about concerns they had with aspects of our defense program.

Mr. President, it seems a little inconsistent to me for the Congress to criticize the Pentagon for not speaking up and then after they express themselves very clearly on the status of the missile defense program, we ignore their testimony and do the opposite of what they say.

I am also disappointed that this legislation perpetuates the practice of not fully funding our obligations to the United Nations. It is in the national security interest of the United States to have an effective United Nations and strong U.S. leadership within the United Nations. It is especially regrettable that this legislation moves us in the opposite direction in order to score political points on the abortion issue.

Mr. President, the bill that we are voting on today includes S. 2176, the Federal Vacancies Reform Act of 1998, with several amendments. This legislation clarifies and updates the current Vacancies Act, an 1868 law meant to encourage the Administration to make timely nominations to fill positions in the Executive Branch requiring the Senate's advice and consent.

First, the Vacancies Act provisions in this bill make it explicit that the Vacancies Act is the sole exclusive statutory authority for filling advice and consent positions on a temporary basis. It can no longer be argued that other general statutory authorities creating or organizing agencies supersede the Vacancies Act and authorize temporary officials, who have not been confirmed by the Senate, to serve indefinitely.

Second, the legislation updates the Vacancies Act in several significant respects to more accurately reflect the realities of today's nominations process. The clearance process for nominees requiring Senate confirmation has become much more complex than it was just a decade ago. Moreover, increasingly adversarial confirmation proceedings have required that background investigations and other steps in the vetting process be more thorough and lengthy. In recognition of this development, the legislation increases the time period that an individual can serve in an acting position from 120 days under current law to 210 days from the date of the vacancy. If a nomination is sent to the Senate during that 210 day period, an individual may serve in an acting capacity until the Senate has completed action on the nomination. Moreover, the legislation gives a new Administration an additional time period of 90 days to submit its nominations in the first year. The legislation allows first assistants, other Senate-confirmed officials, and other qualified high-level agency employees to serve as acting officials.

Finally, the legislation creates an action-enforcing mechanism to encourage our presidents to promptly submit nominations. Specifically, the legislation provides that if no nomination to fill a vacant position is submitted within the 210 day period, the position remains vacant and any duties assigned exclusively to the position by statute can be performed only by the agency head. As soon as a nomination is submitted, however, the legislation provides that an acting official can assume the job until the Senate acts on the nomination.

The legislation also includes an amendment I authored to address the problem of lengthy recesses or adjournments. The bill allows a person to serve in an acting capacity in a vacant position once a nomination is submitted, regardless of whether the nomination is submitted within or after the 210 day time period. This is a clarification the legislation makes to current law. However, there was no provision to allow a person to serve in an acting capacity after the 210 day time period if the nomination is made during a recess or adjournment of the Senate. My amendment, incorporated into the enacted legislation as section 3349d, provides that during such long recesses, the President's submission of a written notification that he or she intends to nominate a designated person promptly when the Senate reconvenes triggers the provision of the bill that allows a person to act in the position temporarily until the Senate acts on the nomination. This allows the President to fill a vacant position with an acting person during a long recess of the Senate provided the President has identified the person whose nomination will be submitted when the Senate returns.

Mr. President, I want to commend my colleagues Senator BYRD and Senator THURMOND for their leadership and sponsorship of legislation to amend the Vacancies Act. They identified a serious problem in the failure of Administrations past and present to comply with their responsibilities under the existing law to promptly nominate persons to fill advice and consent positions. They worked diligently to resolve the various conflicts over this legislation, and I am pleased we were able to bring this legislation to a responsible and timely conclusion.

As we adopt these reforms to the Vacancies Act, we should not forget that as Senators we have a corresponding duty to act promptly and responsibly on nominations once they are submitted by the Administration. We as the Senate rightfully want to protect our Constitutional prerogative to provide advice and consent on nominations. However, we must by the same token discharge these duties in a conscientious and timely manner.

Mr. President, I also want to mention one piece of legislation which the Congress failed to address this year and which was not folded into this Omnibus Appropriations bill in the final hours of this Congress. I am very disappointed that we were not able to enact legislation to improve the regulatory process this year. Senator THOMPSON and I sponsored S. 981, the Regulatory Improvement Act. We had two hearings on the bill and marked it up in the Governmental Affairs Committee back in March of this year. It was reported to the full Senate for consideration in May. The Administration signaled its support for the bill with certain agreed-to changes in July. And, we've been urging that the Majority Leader bring the bill to the floor since that time. The bill now has 17 Republican and 8 Democratic cosponsors.

S. 981 is a reasonable approach to improving the regulatory process by requiring cost-benefit analysis and risk

assessment for our most significant regulations. It would bring meaningful reform to the way the federal government adopts its regulations, and it would make the rulemaking process far more open and interactive. We lost a great opportunity this year and invested a lot of hard work and effort.

FURTHER RESEARCH ON FIBER POLYMER ADDITIVES IN ASPHALT AND CONCRETE IN CONNECTION WITH THE TRANSPORTATION APPROPRIATIONS ACT

Mr. THURMOND. Mr. President, I rise to engage in a brief colloquy with my colleague, the Honorable Chairman of the Transportation Appropriations Subcommittee, Senator RICHARD SHELBY.

Included in the Senate Appropriations Committee Report accompanying the Transportation and Related Agencies Appropriations Act for fiscal year 1999, is a provision directing that additional research be conducted on a product that I believe could greatly improve highway pavement quality and maintenance. I am speaking of the use of fiber polymer additives—also known as ''binders''—in asphalt and concrete, the use of which appears to yield significant results in pavement quality and longevity.

While only a limited amount of research has been completed on this product, the few applications tested under real world circumstances have shown very positive results. If this product is as good as it appears to be in initial test results, it would revolutionize the industry and save states and the Federal Government significant resources for use on other critical infrastructure needs.

Not only does this product appear to add significant longevity to pavement life, it also serves an environmental benefit. Mr. Chairman, as you know, recycling allows us to conserve our natural resources, it diverts additional material from our landfills, and saves energy. A company in my home state of South Carolina, Martin Color–Fi, Inc., has empirical data that shows substantially improved life expectancy for highways constructed with polymer additives in the pavement. Their success, and that of others in this area, is encouraging news for improving the quality and longevity of our Nation's highways.

I note that the Statement of Manager's language accompanying the Transportation title of the Omnibus Appropriations Act, unlike the Senate Committee report, does not specify the amount of funds in the Highway Research, Development and Technology Program for the Federal Highway Administration (FHWA) to conduct additional demonstrations of this technology. It is my understanding that Chairman SHELBY shares my commitment to this research. Further, it is my understanding that he and other members of the committee would join me in strongly encouraging FHWA to work with an academic institution, and give priority consideration to applying at least the amount of research funds specified in the Senate-passed Transportation Appropriations bill, in order to create an academic and industry-led consortium to demonstrate the application of polymer additives in pavement for civil engineering purposes.

Mr. SHELBY. Mr. President, it is my pleasure to stand shoulder-to-shoulder with my colleague from South Carolina, the distinguished President pro tempore, in this effort to increase funding for research into the use of polymer additives for asphalt and concrete pavement.

The Transportation Appropriations Subcommittee directed that $2 million be committed for further research into polymer additives. Limited resources prohibited us from committing additional resources to this effort.

The provision the Committee added to the Report was designed to respond to a shortfall in this area by directing federal research efforts into further study of the effects of polymer additives on pavement quality and performance.

I greatly appreciate the Senator from South Carolina's interest in this matter, and I look forward to working with him and the FHWA to ensure this research is completed and reported to the states and other interested parties in a timely fashion.

Mr. KERRY. There were legitimate reasons to vote against the omnibus appropriations bill. This process was an insult to the Congress. The Republic leadership has put the Congress in an untenable position by refusing to pass many appropriations bills in regular order. I chose to vote for this legislation because of the important things it does for Massachusetts and the nation, and because I do not believe it is useful to cast a protest vote. I am hopeful that in the 106th Congress we can engage in a true legislative process.

Today, the Senate will give final approval to legislation to preserve a balanced budget for the first time in more than a generation. A balanced federal budget has been a key objective for me since I came to the Senate in 1985.

The Federal government had run a deficit continuously for more than 30 years until last year. It soared to dangerous levels in the 1980s during the Reagan and Bush Administrations. As a result of these deficits, our national debt multiplied several times, exacting a heavy toll on our economy, increasing interest rates, squeezing federal spending and making debt service one of the largest expenditures in the Federal budget.

In 1993, following President Clinton's election, we began the long journey back from crushing deficits and toward fiscal responsibility by passing an enormously successful economic plan. The full power of our economy was unleashed: unemployment is at record low; interest rats are subdued; and economic growth continues to be strong. This path culminated in last years; agreement to balance the budget and provide substantial broad-based tax relief for working American families and small businesses.

This year's federal budget is a continuation along the path of fiscal responsibility. At the same time, it begins to address some of our most pressing problems in education.

I am pleased that the omnibus appropriations bill rejects the House Republican approach and expands spending on education. The bill includes funding to begin hiring one hundred thousand new teachers which will assist local school communities to reduce class size in the early grades to 18 students. One hundred thousand new teachers will allow more individual attention for students which will lead to better reading and math scores in the future.

The final bill also includes $75 million to recruit and prepare thousands of teachers to teach in high-poverty areas. It also includes $75 million to train new teachers in how to use technology so that they can better assist their students. This funding is focused on assisting the schools and teachers who need the most help.

We must do everything possible to increase the reading skills of our children so that they can compete in the global economy in the 21st century. This budget includes 260 million for the Child Literacy Initiative which will improve teachers' ability to teach reading, family literacy, and conduct tutor training to help children learn to read by the end of the third grade.

Five million children are locked into a school day that ends in the early afternoon and dumps them into empty apartments, homes or violent streets despite the fact that we know those post-school hours are when teen pregnancies occur, drug use begins, and juvenile crime flourishes. The budget agreement includes $200 million for after-school programs that will help keep 250,000 children of the streets and into learning.

We also must develop an educational system which prepares our children and young people for adulthood. Today, we are failing too many of our children with crumbling schools, overcrowded classrooms, and inadequately prepared teachers. The federal government provides a small amount of the total funding for public elementary and secondary education—less than seven percent of total public spending on K–12 education comes from the federal government, down from just under 10 percent in 1980. Reading scores show that of 2.6 million graduating high school students, one-third are below basic reading level, one-third are at basic, only one-third are proficient, and only 100,000 are at a world class reading level.

Mr. President, I am developing legislation for next year to help every school make a new start on their own. It will be built on challenge grants for schools to pursue comprehensive reform and adopt the proven best practices of any other school, funds to help

every school become a charter school within the public school system, incentives to make choice and competition a hallmark of our school systems, and the resources to help schools fix their crumbling infrastructure, get serious about crime, restore a sense of community to our schools, and send children to school ready to learn.

However, increased spending on education is meaningless if there are no adequate school facilities to teach our children. I am disappointed that the Democrats' proposed tax credit to build and renovate our nation's schools was not included in the final budget agreement. Too many schools now operate in substandard facilities which in some cases are dangerous to our children. Any initiatives to support education must also include an investment to modernize our school buildings.

America's children especially need support during the formative, preschool years in order to thrive and grow to become contributing adults. Additionally, adequate child care is not affordable or even available for too many families. That is why I believe we must provide more help to working families to pay for critically needed, quality child care, an early learning fund to assist local communities in developing better child care programs, and sufficient funding to double the number of infants and toddlers in Early Head Start. President Clinton shares this view and included in his 1999 budget proposal my recommendations on this issue. I am pleased that the final budget will also include $182 million to increase the quality and affordability of child care to assist our working families.

Transportation funding is also crucial to maintain our aging national highway infrastructure. I am very pleased that the Omnibus Appropriations bill contains an additional $100 million in highway funds for Massachusetts as well as approximately $80 million for important transportation projects around the state.

The Commonwealth has reached a critical juncture in its efforts to both complete in Central Artery and Tunnel project and also to maintain and upgrade roads and bridges throughout the state. As many of my colleagues are aware, the ISTEA reauthorization bill contained an unacceptably low level of highway funding for Massachusetts. In order to secure commitment not to delay Senate consideration of the ISTEA bill, Majority Leader LOTT, Democratic Leader DASCHLE, Senators CHAFEE, and BAUCUS committed to me, among other things, that Massachusetts would receive an additional $100 million in highway funds. The inclusion of this money in the omnibus bill represents the fulfillment of this promise. I wish to express my sincere appreciation to them for following through on their commitment. I also wish to thank Senators BYRD and LAUTENBERG for their help in securing this funding.

As noted above, the omnibus bill also contains $80 million for critical transportation projects around the state. It will provide millions of dollars to assist in completing the revitalization of historic Union Station in Worcester and Union Station in Springfield. It will also provide millions to support the construction of intermodal centers in Pittsfield and Westfield. Finally, the bill contains funds to support work on the North-South Rail Link in downtown Boston. It is my hope that his project will continue to receive the funding that it is so sorely deserves.

Since 1995, when the conservative Republicans took control of this body and forced upon the Congress the ''Contract-with-America,'' we continually have had to fight to retain existing environmental protections. This year, we were successful in deleting a number of provisions from the final budget that would have set back efforts to protect our Nation's natural resources—our forests, parklands, fisheries and wildlife.

The final budget supports our environment and improves the lives of the families around America by increasing funding for the clean water state revolving fund, the safe drinking water state revolving fund, protection of endangered species, preservation of precious lands, and the development of cleaner energy technologies. I also am very pleased that the final budget includes an additional $50 million for the cleanup of Boston Harbor to assist the 2.5 million ratepayers in 61 Boston area communities who will pay for the bonds which have primarily financed this project—$3.8 billion for the Boston Harbor sewage treatment project, and $2.8 billion required for combined sewer overflows (CSOs) and other water and wastewater infrastructure upgrades for the next 30 years.

I am pleased that Congress agreed to provide the full $17.9 billion the administration requested to replenish IMF capital funds. The IMF desperately needs this funding because financial crises in South Korea, Japan, and Indonesia greatly have depleted its resources. Without full funding, the IMF would be inhibited from continuing its support of economic recovery in these countries and others.

As the strongest political and economic power, the U.S. has a responsibility to step up to the plate and exercise its leadership in dealing with this problem. I agree that the IMF needs to make some reforms to achieve greater accountability and management of its programs. I believe that implementing the IMF reforms, as required under this bill, will be a strong step in the effort to achieve greater accountability and management of IMF programs. We must be assured that IMF rescue packages effectively will harness economic stability while relieving social and political tensions. The IMF must be a viable and demonstrable institution that can bring about real change for nations suffering under the strains of economic instability.

As ranking member of the Committee on Small Business, I must give the omnibus appropriations bill mixed marks with respect to showing Congress's support for SBA's small business assistance programs. I am pleased that the Omnibus Appropriations Act adequately funds SBA's disaster loan program and fully funds the agency's salaries and expenses. To do otherwise would have been irresponsible and detrimental to the nation's small businesses and victims of natural disasters. The bill takes positive steps with respect to women-owned and veteran-owned businesses. The funding for SBA's Women's Business Centers is doubled to $8 million, consistent with reauthorizing legislation enacted last year, and veteran outreach receives $750,000, the first funding for veteran-owned businesses since fiscal year 1995. The bill contains a modest increase for the Small Business Development Centers, which provide valuable business counseling and training to small businesses throughout the country. The SBA's venture capital program received significant increases in funding, and the cornerstone 7(a) loan guarantee program received substantial funding, although less than the administration requested for fiscal year 1999.

Unfortunately, although the omnibus appropriations bill contains some increased funding for SBA's successful Microloan program, I am disappointed that it fails to adopt the significant increases to the Microloan program, which the authorizing committees envisioned last year when Congress passed SBA's three-year reauthorization bill. That bill, which was reported out of the Committee on Small Business unanimously, made the Microloan program a permanent part of SBA's financial assistance portfolio and substantially increased authorization levels for both loans and technical assistance. Based on those legislative changes, the Administration requested that direct microloan be funded at the fully authorized level. During the appropriations process, Senator GRASSLEY and nine of our colleagues joined me in sending two letters to the Subcommittee leadership voicing our support for full funding of the Microloan program, including a specific request for increased and adequate technical assistance funding. In those letters we described the relationship between loans in the Microloan program and technical assistance. Simply put, adequate technical assistance funding is prerequisite to successful microlending. The microloan and technical assistance funding contained in this bill will allow only minimal, if any, growth in this program, which helps the nation's neediest borrowers.

I am also disappointed that the Economic Research arm of SBA's Office of Advocacy did not receive the $1.4 million, requested by the administration and passed by the Senate. The research performed by that office is highly respected and very valuable to work of

the Committees on Small Business in both bodies and to other small business policy makers.

I support the omnibus appropriations bill because I believe it is an acceptable compromise which keeps the federal government on the path of fiscal responsibility while beginning to fund critically needed and long overdue initiatives to assist America's children. I look forward to building on this budget to address the unfinished business of the American people in the 106th Congress.

EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES

Mr. GRASSLEY. Mr. President, I am pleased that Congress has once again extended the Generalized System of Preferences as part of the omnibus appropriations bill. The GSP is important for many reasons. For instance, from a foreign relations standpoint it allows the U.S. to assist developing countries without the use of direct foreign aid.

It is also of great importance to American businesses. Many American businesses import raw materials or other products. The expiration of the GSP has forced these companies to pay a duty, or a tax, on some of these products. That's what a duty is: an additional tax. By extending the GSP retroactively, these companies will not be required to pay this tax. This tax is significant and can cost U.S. businesses hundreds of millions of dollars. So, Mr. President, it is very important that the GSP be extended and it is very appropriate that the Senate consider it as part of this bill.

It is essential to remember, however, that since its inception in the Trade Act of 1974, the GSP program has provided for the exemption of ''articles which the President determines to be import-sensitive.'' This is a very important directive and critical to our most import-effected industries. A clear example of an import-sensitive article which should not be subject to GSP and, thus, not subject to the annual petitions of foreign producers that can be filed under this program, is ceramic tile.

It is well documented that the U.S. ceramic tile market repeatedly has been recognized as extremely import-sensitive. During the past thirty-years, this U.S. industry has had to defend itself against a variety of unfair and illegal import practices carried out by some of our trading partners. Imports already dominate the U.S. ceramic tile market and have done so for the last decade. They currently provide approximately 60 percent of the largest and most important glazed tile sector according to 1995 year-end government figures.

Moreover, one of the guiding principles of the GSP program has been reciprocal market access. Currently, GSP eligible beneficiary countries supply almost one-fourth of the U.S. ceramic tile imports, and they are rapidly increasing their sales and market shares. U.S. ceramic tile manufacturers, however, are still denied access to many of these foreign markets.

Also, previous abuses of the GSP eligible status with regard to some ceramic tile product lines have been well documented. In 1979, the USTR rejected various petitions for duty-free treatment of ceramic tile from certain GSP beneficiary countries. With the acquiescence of the U.S. industry, however, the USTR at that time created a duty-free exception for the then-minuscule category of irregular edged ''specialty'' mosaic tile. Immediately thereafter, I am told that foreign manufacturers from major GSP beneficiary countries either shifted their production to ''specialty'' mosaic tile or simply identified their existing products as ''specialty″ mosaic tile on custom invoices and stopped paying duties on these products. These actions flooded the U.S. market with duty-free ceramic tiles that apparently had been superficially restyled or mislabeled.

In light of these factors, the U.S. industry has been recognized by successive Congresses and Administrations as ''import-sensitive'' dating back to the Dillon and Kennedy Rounds of the General Agreement on Tariffs and Trade (GATT). Yet during this same period, the American ceramic tile industry has been forced to defend itself from over a dozen petitions filed by various designated GSP-eligible countries seeking duty-free treatment for their ceramic tile sent into this market.

The domestic ceramic tile industry has been fortunate, to date, because both the USTR and the International Trade Commission have recognized the ''import-sensitivity'' of the U.S. market and have denied these repeated petitions. If, however, just one petitioning nation ever succeeds in gaining GSP benefits for ceramic tile, then all GSP beneficiary countries will be entitled to similar treatment. This could eliminate many American tile jobs and devastate the domestic industry. Therefore it is my strong belief that a proven ''import sensitive,'' and already import-dominated product, such as ceramic tile, should not continually be subjected to defending against repeated duty-free petitions, but should be exempted from the GSP program.

Mr. REED. Mr. President, it is a bittersweet task that brings us back to Washington for one last vote before the end of the 105th Congress. Today, we will complete our work on the fiscal year 1999 budget.

To be sure, there is much that I like about the Conference Report before us, but there are some provisions that I strongly disagree with. On balance, however, it is a budget that is worthy of support.

Like many of my colleagues, I must lament the process that has brought us to this point—20 days after the start of the fiscal year. The Conference Report that we are about to vote on is almost 4,000 pages long. We have been given only a few hours to examine it. None of us knows the complete contents of the legislation, and there has been no opportunity to debate or offer amendments.

Fortunately, we have avoided a budgetary train-wreck similar to the one that closed down the government in 1995. But, Mr. President, this year the train is extremely late, and to hear the debate in this chamber, nobody wants to take responsibility for driving the engine.

We have subverted the regular budgetary process, failing even to pass a Budget Resolution. The majority could not reconcile its own discordant priorities to pass this blueprint legislation, which is required by law.

On this side of the aisle, we had a definitive agenda: preserve the budget surplus to save Social Security, invest in education, pass health care reform legislation, pass campaign finance reform, and pass legislation to prevent the tobacco industry from preying on our youngsters.

The President made these goals clear in his State of the Union Address and later with his fiscal year 1999 budget proposal. Claims that the priorities on this side were hidden until the very end are false. We have been here all along, working toward goals that the American people recognize as important, and we have had some success in achieving these goals in this legislation. There are a few provisions of the Conference Report that I would like to highlight:

This legislation preserves the surplus to help save Social Security.

It includes $1.2 billion for efforts to reduce class-size, of which $5.6 million would be awarded to my home state of Rhode Island. The omnibus bill also allocates funding to improve teacher preparation and recruitment, a cause that I was actively involved with during the drafting of the Higher Education Act Amendments of 1998.

The budget bill also includes funding for critical reading legislation—$260 million to help address the serious declines in literacy levels that have left 40% of America's fourth graders without basic literacy skills. The newly created GEAR UP program would receive $120 million under the bill. This ambitious new initiative will help encourage youngsters living in high poverty areas to pursue their higher education goals.

Finally, this Conference Report contains $33 million for the construction of as many as five new Job Corps centers, including one in Rhode Island, which is one of only four states currently without a center.

On the negative side, $800 million in subsidies for the Tennessee Valley Authority (TVA) was slipped into this legislation. Neither House of Congress included this level of funding in its version of the Energy and Water Appropriations bill. The omnibus package also retains a poorly constructed rider that prevents the Occupation Safety and Health Administration (OSHA) from conducting inspections on small

farms in response to fatal accidents involving minors. I am committed to addressing both of these issues next year.

This Conference Report is also bad for what it does not contain. In particular, it lacks funding for school construction, which is required to help meet the $121 billion need for new and refurbished schools, nor does it include an important bipartisan initiative authored by Senators JEFFORDS and KENNEDY to help individuals with disabilities join the workforce while maintaining their essential Medicare and Medicaid coverage.

Finally, it fails to adequately fund the Leveraging Educational Assistance Partnership (LEAP), a federal-state program that is a major source of higher education grant aid. I worked hard with the other authors of the Higher Education Act Amendments to reauthorize and improve this program, and I believe the failure to sufficiently fund LEAP is short-sighted.

Mr. President, there is much that could be done to improve this Conference Report, but we must pass it to keep the government open. It is unfortunate that we have been put in the position of having to vote up or down on this hefty omnibus package with no opportunity to offer amendments, no opportunity for a substantive debate, and little chance to review the measure itself. Fast-Track budgeting at the end of a Congress is no way to make up for time squandered at the beginning. I hope that this is the last time we follow this kind of eleventh-hour, gerry-rigged process.

RYAN WHITE AIDS FUNDING UNDER TITLE IV

Mr. LAUTENBERG. I would like to engage the Chairman and Ranking Member of the Labor-Health and Human Services (HHS) Appropriations Subcommittee in a brief colloquy concerning pediatric AIDS demonstrations funded under Title IV of the Ryan White CARE Act.

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

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

Mr. LAUTENBERG. I would first like to commend and thank the Chairman and Ranking Member for their work to ensure our Nation's continued strong commitment to our children and families tragically infected with HIV by providing support for Title IV of the Ryan White CARE Act. Title IV programs are designed to coordinate health care and assure that it is focused on families' needs and based in their communities. These programs are the providers of care to the majority of children, youth, and families with HIV/AIDS in our country, ensuring these families have access to the comprehensive array of services they need. A portion of Title IV funds may be used to provide peer-based training and technical assistance through national organizations that collaborate with projects to ensure development of innovative models of family centered and youth centered care; advanced provider training for pediatric, adolescent, and family HIV providers; coordination with research programs, and other technical assistance activities.

The Senate report stated that the Committee intends for the Department to continue its Title IV support of the National Pediatric and Family HIV Resource Center located within the University of Medicine and Dentistry of New Jersey. The Title IV funding needed to support the Center's work is $1.1 million per year. Is it correct that the managers intend for the Department to continue to support the National Pediatric and Family HIV Resource Center?

Mr. SPECTER. Yes, the Senator from New Jersey is correct. The committee intends that the National Pediatric and Family HIV Resource Center should continue to receive adequate funding.

Mr. HARKIN. I concur with the Chairman.

Mr. LAUTENBERG. I thank the Chairman and Ranking Member for their support, and for their continued work in this very important component of our national HIV/AIDS strategy.

PARKINSON'S DISEASE FUNDING

Mr. COCHRAN. Mr. President, one year ago this body adopted, by a vote of 95 to 3, legislation increasing our nation's commitment to finding the cause and cure for a long overlooked, but truly devastating disorder: Parkinson's disease. I was proud to cosponsor and vote for the Morris K. Udall Parkinson's Disease Research Act, signed into law as part of the Fiscal 1998 Labor, Health and Human Services, Education and Related Agencies Appropriations Act. The Udall Act authorized $100 million in research focused on Parkinson's disease to be funded through the National Institutes of Health in fiscal year 1998, 1999 and beyond.

The passage of the Udall Act was a great accomplishment, particularly for the hundreds and thousands of victims, and their families and friends, who worked so diligently to bring this issue to the Congress and make us aware of the need for additional Parkinson's research funding. I would also like to commend the Senior Senator from Pennsylvania, one of the true champions of medical research, for his strong support of the Udall Act and Parkinson's research.

Mr. SPECTER. I appreciate the remarks of my friend from Mississippi. He is correct that Parkinson's disease is a very serious disability, but one for which medical science does hold great promise. In addition, I too would like to commend the efforts of the Parkinson's community who have worked tirelessly to achieve passage of the Udall Act and increase funding for Parkinson's research.

Mr. COCHRAN. Mr. President, I am concerned that the National Institutes of Health has implemented neither the letter nor the spirit of the Udall Act, and that funding for Parkinson's-focused research has not increased in a fashion consistent with Congressional intent. An independent analysis, conducted by Parkinson's researchers at institutions all around the country, of the grants NIH defined as its Parkinson's research portfolio for fiscal year 1997 indicates that a majority of the grants are in fact not focused on Parkinson's disease. Only 34 percent of the funding NIH claims is Parkinson's research is actually Parkinson's-focused research, as required by the Udall Act. As troubling as that is, the study also found that 38 percent of the funding has no relation whatsoever to finding a cause or cure for this terrible affliction.

It is my understanding from published NIH budgetary documents that $106 million is expected to be allocated to Parkinson's research in fiscal year 1999. My concern is that without more direction from Congress, the NIH will undermine the intent of the Udall Act by continuing to classify, as part of its Parkinson's portfolio, research that is not focused on Parkinson's disease and, in doing so, will allow meritorious and much-needed Parkinson's research projects to go unfunded. I propose that a hearing be held early in 1999 to address and clarify these matters.

Mr. SPECTER. The gentleman has brought up important issues, which warrant further discussion.

Mr. CRAIG. As a sponsor of the Udall Act and supporter of Parkinson's research funding, I appreciate the Chairman's interest in these matters. The NIH claimed to spend more than $89 million on Parkinson's research in 1997. The Congress set a baseline authorization of $100 million for Parkinson's research in the fiscal year 1998 bill making NIH appropriations and clearly stated in report language that Congressional intent was to increase the commitment of NIH resources to Parkinson's. Close review of NIH's Parkinson's funding practices indicates that most of the research funding they define as Parkinson's is, in fact, not focused on Parkinson's at all. The NIH claimed to spend more than $89 million on Parkinson's research, in FY 1997. In reality, we later discovered that less than $31 million—just more than one third—of that research was truly focused on Parkinson's. Obviously there seems to be some disconnect here. Congress needs to be as clear as possible when communicating our intent to NIH, and diligent when overseeing their funding practices with regard to Parkinson's. I agree with Senator COCHRAN that hearings should be held early next year to address these issues, and I look forward to working with him, the Chairman, and others to see this resolved.

Mr. SPECTER. I thank the gentleman from Idaho and look forward to future discussions on his suggestions. It is a pleasure to recognize the sponsor of the Udall Act, and someone who remains very close to Mo and the Udall family, the distinguished Senator from Arizona.

Mr. MCCAIN. I thank my friend from Pennsylvania. The Senator is correct that this is an issue of personal importance to me, and I appreciate his support as we work to defeat this terrible disease. I would also like to acknowledge the tremendous efforts of the Parkinson's community—courageous individuals in my state and all across the country who have worked so hard to pass the Udall Act and continue to work to achieve its full funding.

There are an estimated one million Americans living with Parkinson's disease, and the nature of its symptoms are such that they impact heavily on families and loved ones as well. Add to these staggering human costs the fiscal burden of health care expenses and lost productivity, and it's easy to see that Parkinson's deserves to be a higher national priority. Parkinson's disease also represents a real research opportunity, where an investment of funds is likely to yield improved therapies sure to reduce both the personal and financial costs to our families and our nation.

To realize this opportunity, though, it is up to Congress and the NIH to ensure that these funds get allocated to research focused on Parkinson's. Chairman SPECTER and others in this body have worked hard to ensure that NIH has the overall funding it needs to aggressively pursue research opportunities like those relating to Parkinson's. I have received a letter dated May 21, 1998 from NIH Director, Dr. Harold Varmus, which includes a chart indicating that the NIH will spend over $106 million on Parkinson's research in fiscal year 1999. I look forward to working with my colleagues and the NIH to see that this funding goes for research principally focused on the cause, pathogenesis, and/or potential therapies or treatments for Parkinson's disease as mandated by the Udall Act.

Mr. SPECTER. I thank the gentleman for his remarks, and look forward to continuing to work with him on these matters. Now I would like to recognize the other Senate sponsor of the Udall Act, another Senator with a deep and sincere connection to Parkinson's disease, the gentleman from Minnesota, Senator WELLSTONE.

Mr. WELLSTONE. I thank the Senator, and commend him for his support on this very important issue. I also wish to thank my friend, Senator MCCAIN, for joining me last year in sponsoring the Udall Act.

I believed when we passed the Udall Act last year we had begun to change a sad history of chronic underfunding of Parkinson's by the NIH. It was a very personal victory for me—and for all those who fought so hard to see the Udall Act enacted into law.

I am here today, along with my colleagues, in an effort to fulfill the promise of the Udall Act and the commitment we in Congress made to people with Parkinson's, their families and those researchers dedicated to curing this disease. I find it very disheartening to learn that so little of the research NIH claims to devote to Parkinson's is actually Parkinson's-focused as called for by the Utall Act. it was our intent and it is our obligation to ensure that at least $100 million in research specifically focused on Parkinson's is allocated. And if it takes stronger language, more oversight, or congressional hearings to guarantee it gets done, then that's what we must do.

Members of the Senate have expressed their interest in seeing the Udall Act fully funded in fiscal year 1999, and we have taken some positive steps this year to accomplish that goal. But our work is not done. The ultimate goal is not legislative accomplishments. It is not adding more dollars to this account or that one. The ultimate goal is to find a cure for this horrible, debilitating disease so that more people don't have to suffer the way my parents and our family did, or the way Mo Udall and his family does, or the way countless families do every day in this country. By passing the Udall Act we made a promise to put the necessary resources into the skilled hands of researchers dedicated to finding that cure. I intend, as I know my colleagues and those in the Parkinson's community intend, to do everything I can to fulfill that promise.

Mr. SPECTER. I thank the Senator from Minnesota and all of my colleagues for their remarks today about Parkinson's research funding through the NIH. I look forward to working closely to address the concerns expressed here today.

SPRINGFIELD, VT, WORKFORCE DEVELOPMENT CENTER

Mr. JEFFORDS. Mr. President, I would like to engage my good friend and colleague, the Chairman of the Subcommittee on Labor, Health and Human Services and Education Appropriations in a colloquy regarding a provision in this legislation that is of great importance to me.

Mr. SPECTER. I would be pleased to join my good friend and colleague in a colloquy.

Mr. JEFFORDS. The Springfield region of Vermont currently faces a crisis in the machine tool industries. Six major machine tool employers in the area indicate that more than 50 percent of their workforce will retire within the next five to seven years. This will create the need for highly skilled employees to fill more than 700 positions in machine technology. In addition, other employers in the areas of information technology, hospitality and travel, financial services and food services industries indicate that they have an urgent need for a responsive education delivery system designed to meet their growing demand for skilled labor. I understand that the conference report includes funds for the Springfield Workforce Development Center to implement innovative training and vocational education strategies to meet the education, workforce and economic development needs of the region.

Mr. SPECTER. The Senator is correct. The Appropriations Committee recommendation includes funding for the Springfield Workforce Development Center, and this recommendation is retained in the conference agreement on the omnibus bill.

MEDICAL UNIVERSITY OF SOUTH CAROLINA

Mr. HOLLINGS. May I enjoin the Senator from Pennsylvania in a colloquy?

Mr. SPECTER. I would be pleased to hear from the Senator from South Carolina.

Mr. HOLLINGS. I would like to clarify an item contained in the statement of the managers of the omnibus appropriations bill. In the health facilities section of the Health Resources and Services Administration, reference is made to a project intended for the Medical University of South Carolina. Inadvertently, the word ''Medical'' was not included in the statement of the managers; however, that word's inclusion was clearly the intent of the managers.

Mr. SPECTER. I thank the Senator for his clarifying statement.

HEPATITIS C FUNDING

Ms. MIKULSKI. Will the chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee yield for a question?

Mr. SPECTER. I will be pleased to yield to the Senator from Maryland.

Ms. MIKULSKI. As the chairman knows, hepatitis C is the most common blood-borne infection in the United States. The CDC estimates that there are 4 million Americans—or 2 percent of the population—that are infected. Each year there are 10,000 deaths due to hepatitis C and the death total will increase to 30,000 a year unless something is done to intervene with the progression of this disease in the United States. Unfortunately, the vast majority of people infected with hepatitis C are not even aware that they are infected because the disease is ''silent'' without symptoms sometimes for decades. Meanwhile these infected individuals may be passing the disease on, causing new infections to occur each year. We need to break this cycle by helping individuals learn they have hepatitis C and by getting them to seek counseling, testing, and treatment of their infection and begin to understand the seriousness of this epidemic.

Additional funds are needed to support both a targeted look back effort to reach the 300,000 Americans who have hepatitis C as a result of exposure to blood products prior to 1992, when blood was not adequately screened for hepatitis C and a general media campaign to alert other Americans infected by hepatitis C. These funds are needed to fund cooperative efforts of State and local health departments and national voluntary health agencies such as the American Liver Foundation to identify, educate, counsel, test and refer for treatment those infected. The efforts should be bolstered by a toll-free hotline to help provide information and

counseling. In addition, since not everyone can afford private testing, some of these funds should be made available to public health agencies for clinic testing and other testing options, including FDA-approved telemedicine testing services.

The chairman and the committee have some very strong report language focused on this issue and the chairman is well aware of this problem. I compliment him for the guidance he has given to the CDC on this issue. I have been informed by the CDC that $48 million is needed and at a minimum $16 million is needed just to begin to address this epidemic in fiscal year 1999. Can this amount be found within the totals recommended by the conferees?

Mr. SPECTER. I thank the Senator for her question. I agree that more needs to be done by CDC to address the hepatitis C epidemic. The conferees have provided a substantial increase for Infectious Diseases at CDC and I will urge the CDC to allocate increased resources to this matter.

Ms. MIKULSKI. I thank the chairman of the Labor, Health and Human Services, and Education Appropriations subcommittee for his response. Again, I compliment him and the ranking member, TOM HARKIN, for their hard work on the Labor/HHS appropriations bill.

DREXEL UNIVERSITY INTELLIGENT INFRASTRUCTURE INSTITUTE

Mr. SPECTER. Mr. President, I have sought recognition to thank the chairman of the Transportation Appropriations Subcommittee for having included in this legislation funding for the Drexel University Intelligent Infrastructure Institute. I have been pleased to have worked with Drexel for several years on obtaining funding to establish the institute, which will focus on the link between intelligent transportation systems and transportation infrastructure. Drexel has teamed up with the Delaware River Port Authority to study that agency's infrastructure, which includes four major bridges that provide critical links in the east coast corridor. Congress has previously appropriated $750,000 toward this project and authorized establishment of the institute in the TEA–31 legislation enacted earlier this year.

It is my understanding that it is the intent of the managers for the Transportation Appropriations bill that the $500,000 provided for the institute shall be made available pursuant to the provisions of section 5118 of TEA–21, which specifically authorizes the establishment of the Institute.

Mr. SHELBY. I want to thank the Senator from Pennsylvania for his comments and to confirm his understanding with respect to the Drexel Institute. As noted in the Senate committee report, the funds allocated within the Statement of Managers are to be made available for the purposes expressed in section 5118 of TEA–21.

THE AMERICAN COMPETITIVENESS AND WORK FORCE IMPROVEMENT ACT

Mr. GRAMS. Mr. President, I rise in support of the compromise H–1B visa legislation included in the omnibus appropriations bill. I am pleased a compromise was achieved that has now passed the House by a vote of more than two to one.

With the demand in this country rising for this category of highly skilled workers currently in short supply in the U.S., I believe there is a need to temporarily increase this visa category. The engine now driving our successful economy is being fueled in large part by growth in the information technology industry. I am told these high tech industries account for about one-third of our real economic growth. According to the Information Technology Industry Data Book, 1998–2008, the domestic revenue from the U.S. information technology industry is projected to be $703 billion for the year 2000.

With this sudden surge in industry growth, the United States has found itself unprepared to supply the large numbers of math and engineering graduates necessary to support this growth. In fact, American schools are producing fewer math and engineering graduates than in the past.

We have been forced to address this current imbalance by temporarily allowing needed high-tech workers to work in our country. This is necessary until we can develop the expertise we need in the country.

This compromise bill will do just that. For the next 3 years, additional workers from foreign countries will be allowed to work here. During this time, Americans will be educated to fill these jobs through scholarships and job training financed by fees collected from employers petitioning for the current foreign workers. We must do more to ensure our work force meet the demands of a growing, more sophisticated economy—that we have the educated work force we need to continue to prosper and provide better jobs for Americans.

There are other important issues covered by the bill including increased penalties for violations of law by employers, random investigations of employers sponsoring H–1B visas by the Department of Labor and protection of ''whistleblowing'' employees. I think this compromise is something that will help us now and in the future. I urge its passage.

Mr. KOHL. Mr. President, I rise today in opposition to the Omnibus Consolidated and Emergency Supplemental Appropriations Act before us. This was not an easy decision because there are many parts of this legislation I support. But, on balance, I cannot support a bill that is in essence sloppy—both in the process by which it was constructed and in its content.

We are asked today to vote—up or down—on a bill that contains eight of thirteen appropriations bills that fund the government and almost $500 billion in government spending, nearly 30 percent of our budget. We have one vote, little debate, and no chance of amendment on what has been described as the largest piece of spending legislation in recent history. And beyond the spending sections of the bill, it also includes various pieces of authorizing legislation—seven different drug bills, home health care reform, and Internet tax moratorium, a tax cut that will cost $9.2 billion over the next nine years among other items.

This is a huge measure—a measure that the esteemed Senator BYRD has called a ''monstrosity,'' and he is right. It is a measure that, in its entirety, few have seen and no one understands. Yet today, we are asked to say ''yes'' or ''no'' to it. How can we say ''yes'' to a budget that we have not read, have not participated in its drafting, have not even seen? To do so would be irresponsible and undemocratic.

In saying this, I mean no disrespect to those of my colleagues who have worked very hard to try to make this process fair. The negotiators were caught in a bind that all of Congress has a responsibility for creating: We let partisanship and politics get in the way of passing a thoughtful budget this year, and so now we are stuck slapping a budget together at the last minute.

I commend the negotiators for doing the best they could. All parties were as responsive as this terrible situation allowed. The Democratic leadership in the Senate and Representative OBEY were vigilant in trying to protect the interests of Wisconsin during negotiations, and they were successful in doing some good for our State and in avoiding a great deal of bad.

I also do not mean to suggest that there are no items in this legislation that I support. There are many good policies, provisions and priorities established here.

For the most part, I am pleased with the final form of the Treasury-General Government appropriations bill which I worked on as the Subcommittee's Ranking Member. Controversial language tampering with the Federal Election Commission's staff was dropped. Important language guaranteeing adequate contraceptive coverage to federal employees was retained. And many important law enforcement and financial agencies were funded at adequate levels. In addition, that bill allocated money for fighting the war on drugs in my State—an additional $1.5 million to expand the Milwaukee High Intensity Drug Trafficking Area (HIDTA) and additional funds for expanding the Youth Crime Gun Interdiction Imitative operating now in Milwaukee.

The Omnibus bill also makes a strong investment in the education of our children, starting from early childhood education and continuing through higher education. The bill increases funding for the Child Care and Development Block Grant to over $1.18 billion,

an increase of $182 million. This includes a continuation of the $19.1 million set-aside for resource and referral programs, which help parents locate quality, affordable child care in their communities. In addition, we increased funding for Head Start by over $300 million, increased funding for Disadvantaged Students (Title I) by over $300 million, increased Special Education funding by over $500 million, and provided $1.1 billion to local school districts to help reduce class size in the early grades. We also provided over $300 million more for Student Aid, including an increase in the maximum Pell Grant to $3,125.

In addition to investing in our children, the bill also ensures that we take care of our nation's elderly. Despite the fact that the House eliminated funding for LIHEAP, we were able to restore that funding to its full amount of $1.1 billion, ensuring that the elderly will not have to choose between food and heat during the cold winter months. We also increased funding for the Administration on Aging, including a $3 million increase for the Ombudsman program, which serves as an advocate for the elderly in long-term care facilities.

This appropriations measure also includes vital funding for highways and transit at the historic levels approved by Congress as part of the Transportation Equity Act earlier this year and a strong level of investment in airport improvement. In addition, the transportation piece of the omnibus bill funds a number of Wisconsin specific items, including Wisconsin statewide bus programs that play a crucial role in our welfare to work efforts, the renovation of the Milwaukee Train Station, crash and congestion prevention technology funding for the State, commuter rail planning and grade crossing mitigation funds for Southeastern Wisconsin and funding for the Coast Guard's Great Lakes' icebreaker and Seagoing Buoy Tender replacement programs.

The transportation piece of the omnibus package includes an important authorization provision affecting Milwaukee, Wisconsin's East West Corridor project. In the ISTEA reauthorization debate, the future of this project fell victim to politics and backroom dealing. Specifically, a provision was attached to the reauthorization legislation, the Transportation Equity Act or so-called TEA–21 law, which sought to undermine the framework of local decision making created by the original ISTEA in 1991. Worse still, this TEA–21 provision had not been debated as part of either the House or Senate reauthorization bills, but was added to the final bill at the eleventh hour despite the objections of those Members of Congress most impacted.

As a member of the Transportation Appropriations Subcommittee, I attempted to mitigate the damage done by the TEA–21 provision by attaching an amendment to the Senate Transportation Appropriations bill for Fiscal Year 1999. My amendment reaffirms the right of local officials to decide what transportation projects best fit the needs of their community. It simply makes sure that all parties who deserve to be at the decision making table have an equal seat at that table. I am pleased that a compromise version of my amendment is included in the omnibus package. It is my sincere hope that State and local officials will now work together to move ahead expeditiously with the East West Corridor improvements. Fairness has won the day, now consensus and cooperation must yield progress on a project of vital importance to the economy and quality of life in Southeastern Wisconsin.

I also am pleased several provisions I worked for throughout the year have made it into the portion of the bill covering Commerce-Justice-State appropriations. Most importantly, the legislation includes more than a threefold increase in crime prevention spending through Title V, a juvenile crime prevention program I authored six years ago. The funding level was increased from $20 million to $70 million. This should provide WI with around $1 million in prevention spending next year, a big boost from the approximately $340,000 it received last year out of the lower funding level.

The bill also extends a limited number of important tax provisions in a fiscally responsible manner—meaning these provisions are paid for, but not at the expense of the social security surplus. In particular, I strongly support the acceleration of the increase in the deduction for health insurance of the self-employed and the permanent extension of income averaging. Both these measures will go a long way to ease the tax burdens of Wisconsin's farmers and small business people. When we return in the spring, it is my hope that we will approve the reforms necessary to preserve the long term viability of social security, as well as enact more additional targeted, fiscally sound tax relief measures, such as my Child Care Tax Credit.

Finally, I applaud the Administration for recognizing the financial crisis that is sweeping the agricultural sector of the Midwest this summer. The legislation also wisely adds more money for market losses and drought in the southern U.S.

In addition, this bill does more than recognize the current problems in rural America. Although modest, the bill provides more financial help to maintain the viability of Wisconsin agriculture by appropriating $17 million more for agricultural research than last year, allowing the University of Wisconsin to develop the new technologies that will soon be the new production practices used by farmers. Soil and Water Conservation programs spending will increase by $8 million, enhancing programs like the Environmental Quality Improvement Program (EQIP). An additional $23 million was added for the Administration's Food Safety Initiative which includes money to increase the surveillance, research and education relating to food-borne illnesses. And finally, Congress agreed to pay dairy farmers for the transitioning of the industry to a more market oriented system as ordered by the last farm bill. Dairy producers will receive an estimated $200 million for agreeing to end the price support system in 1999.

However, I still have significant concerns that Congress decided to postpone the consolidation of the milk marketing orders required by the 1996 Farm Bill and to extend the Northeast Dairy Compact. Our outdated, unfair pricing system must come to an end. It was wrong to use this bill to extend its life—and the life of a controversial regional price fixing scheme—both policies that hurt competitive Wisconsin family farmers.

Another major problem with this bill is the use of the budget surplus to fund over $20 billion ''emergency'' spending. Certainly, some of these funds will go to meet truly unanticipated and urgent needs—like military deployments, natural disaster recovery efforts, and a response to the farm crisis sweeping the center of the nation. These are one-time, compassionate and necessary expenditures that must be made regardless of budget rules.

Unfortunately, a significant portion of the so-called ''emergency'' money is not for true emergencies. For example, $1.3 billion is for military readiness—a worthy goal, but one that we ought to budget for as part of our annual budget process. I certainly hope it is not news to anyone that we expect our military to be ready to defend us. In addition, $50 million of that money is for ''morale, welfare, and recreation.'' Again, I agree with the goal of keeping our troops fit and content—but doing so should be a priority in every year's budget, not an off-budget item described as an ''unanticipated need.''

Many of us have argued that we ought not to use the budget surplus as an excuse to abandon fiscal discipline. We still need to save—for the Social Security obligations and health care needs of an aging population, for the rainy day that world economic instability may bring about, for the trust of the American taxpayer who expect us to use their tax dollars wisely. We succeeded in balancing the budget; it makes no sense to celebrate by unbalancing it again.

I am also concerned about the pork that is the inevitable result of the haphazard and closed process that produced this legislation. I do not know what it is now, but I do know it will show up as we—and the public and the press—pore over the 8000 pages of this legislation over the next few weeks.

In the end, as with any vote, the final decision has to be a result of weighing the good and the bad. No bill is perfect; most are the result of compromise. But

in this bill, the balance of good and bad is tipped by the undemocratic and irresponsible manner in which it was written. I will vote no this morning, and I urge my colleagues to join me.

Mr. KYL. Mr. President, for the better part of the last year, we have been considering what to do with projected budget surpluses should they ever materialize. Some people suggested setting aside the excess money to help save Social Security. Some wanted to use a portion for tax relief, or paying down the national debt. I believe there was merit in each of those ideas.

It did not take long, however, for all of the good ideas to be swept aside once the surplus actually materialized. Just three weeks after confirming that the federal government achieved its first budget surplus in a generation, we have a bill before the Senate that proposes to use a third of the surplus to increase spending on government programs other than Social Security, tax relief, or repayment of the national debt.

I am very disappointed that we find ourselves in this situation. President Clinton pledged in his State of the Union address to ''save every penny of any surplus'' for Social Security, yet he was the first in line with a long list of programs to be funded out of the budget surplus. And Congress appears willing to go along. I, for one, intend to vote against this raid on a surplus that should be saved for Social Security or tax relief.

Mr. President, the Congressional Budget Office tells my office that it has not yet determined the cost of the omnibus spending bill, and may not be able to do so for some time. However, if you total the figures included in the conference report, it appears that the cost will approach $520 billion—that is, if funding for the International Monetary Fund and emergency agriculture money is included. I am looking at Division A of the bill—for mandatory and discretionary programs.

That compares to $447 billion for the same programs only a year ago. In other words, we are being asked to approve a bill that proposes to increase spending 16 percent in a single year. That does not even take into account the extra spending—another $21 billion—that is to be financed out of the budget surplus.

That is just too much. To put things into perspective, the average increase provided by the FY99 spending bills I supported earlier in the year amounted to just 0.1 percent—a spending freeze, in effect. If we are to keep the budget balanced and preserve our options on how to use the budget surplus, we need to follow a more responsible path. This bill, with its raid on the budget surplus, represents a dangerous return to the old ways of budget-busting, bigger government.

Mr. President, let me say a few things about the process that spawned this bill. Eight of the regular appropriations bills are wrapped into this package. A so-called emergency spending bill is attached, bringing the total cost of the legislation to over a half-trillion dollars. It is massive. It is no way to do the people's business responsibly.

I recognize that our leadership had little choice but to make the best of a bad situation, given President Clinton's propensity to shut the government down if he does not get his way. Indeed, one of the President's representatives admitted as much to the Majority Leader a few weeks ago when he said the White House would shut down the government if it was in its political interest to do so. That is reprehensible.

Still, our leadership did manage to secure some very good things in this bill—things that I would support if they could be separated out and considered on their own merits. Important funding for our nation's defense, anti-drug efforts, and increased law enforcement in Indian country is included. There are resources for 1,000 new Border Patrol agents, provisions to alleviate problems in the implementation of new border-security systems, funding for the National Institutes of Health, and programs to help victims of domestic violence.

However, by failing to prioritize spending, the bill simply throws more money at bad programs as well as good ones. It is easy to please everyone by spending more and more money. Yet that is a sure prescription for a return to the customary budget deficits we worked so hard to eliminate.

The fact is, this bill was written by a handful of congressional Members and staff and the White House behind closed doors. Most Members of Congress have not had a chance to review it, debate it, or offer amendments. That means our constituents have been shut out of the process. This is a risky and dangerous precedent that I believe we will come to regret.

Mr. President, while there are a number of good items in this bill—items I support—on balance, I believe it blurs the difference between two competing philosophies of government and, as I said before, represents a dangerous return to the old ways of budget-busting, bigger Government, and less freedom.

I will vote no.

Mr. FAIRCLOTH. Mr. President, I rise in support of this legislation. There are many good things about this bill. It is not perfect—but we shouldn't let the perfect be the enemy of the good. In our constitutional process, the Republican majority cannot get everything it wants and with a very liberal White House, we are forced to compromise in order to keep the Government functioning.

The most important thing the American people need to know is that this year the Congress has balanced the budget for the first time in 30 years. Next year, in 1999, we will balance it again. Because we have stopped the growth of the Federal Government, we finally have stopped spending more than we collect, and giving the bill to our children and grandchildren to pay in the future.

Let me discuss the many positive provisions in this bill. First, we have increased defense spending for an anti-ballistic missile defense. This involves the very core of our national security. And I should note, this is the first Congress to increase defense spending since 1985.

We have included provisions to reduce the spread of obscene material over the Internet. Also, we have doubled the number of Customs agents to block child pornography coming in from overseas.

In an area that I have particularly been interested in, we have attached real reforms to the IMF funding, rather than giving funds to the IMF with no strings attached as the President would have liked us to.

We have provided funding for new teachers, but maintained local control over the hiring—and—we have prevented national Federal testing of students.

We have included seven major proposals to fight the war on drugs. Bill Clinton has mocked the seriousness of drug use and it has showed. Drug use among teens has been on the rise during the Clinton administration.

We are funding increases in health care research, particularly cancer research and breast cancer research. We kept our commitment from last year to dramatically increase spending in the fight against cancer. The bill also contains a requirement that requires insurance companies to cover breast reconstructive surgery for women afflicted with breast cancer.

On the tax side, we have extended the research and development tax credit, which is important to North Carolina.

Further, we are changing the tax laws to permit 100% deductibility of health insurance for self employed individuals.

And this is another important point that is often overlooked by the media. This is the first Congress to cut taxes in 16 years. And in this bill, we have again reduced taxes for the self employed.

This is in stark contrast to the Clinton tax increase of 1993, the largest in the history of the U.S.

For North Carolina specifically, there are a number of positive provisions. We have received money for a program called LEARN North Carolina, which will provide important curriculum information to our teachers and classrooms over the Internet throughout North Carolina.

The Congress again provided funding for the Reading Together program which has fifth graders tutoring second graders in reading—it is a truly remarkable program that has shown very positive results in increasing the reading skills of elementary students.

The bill provides funding for the North Carolina Center for the Prevention of School Violence, in order to reduce violence in schools.

We have provided money to save a national landmark, the Cape Hatteras Lighthouse.

The bill will provide additional funding for the North Carolina Criminal Justice Information Network, which will help our state troopers identify criminal suspects on the spot during traffic steps. It will save the lives of our police officers.

In order to stop crime before it happens, we have provided funding for gang resistance in troubled parts of North Carolina.

For transportation, we have secured $10 million for light rail in the Triangle. In Charlotte, we have $3 million for the planning of light rail in that booming area of the state.

For our farmers, unlike the White House proposal, we have made sure that North Carolina farmers can receive aid if they are hit by low prices. Also, in order to keep our farmers competitive in the global marketplace, we have provided millions in agriculture research for North Carolina.

These are just a few of the items that have been secured for our state.

As I said, Mr. President, this is not a perfect bill.

We are spending too much money under the guise of ''emergency'' spending. Under the banner of ''emergency'' spending, we have funds for the Bosnian mission, the Year 2000 compliance, farm aid and embassy security funds. While we can't desert our troops in Bosnia now, we can find other spending cuts to pay for this mission, if it continues. We need funds to fix the Year 2000 problem, but we can find other cuts to offset this spending. And, we need funds to make our foreign missions more secure. I am willing to vote for these new funds now, but I can vow that I will seek spending reductions in the next year to offset them.

For this reason, I am also introducing legislation today that would require the President to submit a budget next year identifying spending cuts so that we can pay for the twenty billion in ''emergency'' spending that we have spent in this bill. We must preserve the surplus for Social Security, and emergency or no emergency, we have to find cuts in government so that we do not fritter away the surplus.

In conclusion, this bill, on balance, is a bill for a better national defense, better schools and better health care. For that reason, I plan to support it.

OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

Mr. STEVENS. Mr. President, this legislation includes the Olympic and Amateur Sports Act Amendments of 1998, a bill that Senator CAMPBELL joined me in cosponsoring to update the federal charter of the U.S. Olympic Committee and the frame-work for Olympic and amateur sports in the United States.

This framework is known as the ''Amateur Sports Act,'' because most of its provisions were added by the Amateur Sports Act of 1978 (P.L. 95–606). The Act gives the U.S. Olympic Committee certain trademark protections to raise money—and does not provide recurring appropriations—so therefore does not come up for routine reauthorization.

The Amateur Sports Act has not been amended since the comprehensive revision of 1978—a revision which provided the foundation for the modern Olympic movement in the United States. The bill we will soon pass does not fundamentally change the Act because our review showed us that is still fundamentally sound. We believe the modest changes we will make will ensure that the Act serves the United States well in the 21st Century.

The significant changes which have occurred in the world of Olympic and amateur sports since 1978 warrant some fine-tuning of the Act. Some of the developments of the past 20 years include: (1) that the schedule for the Olympics and Winter Olympics has been alternated so that games are held every two years, instead of every four—significantly increasing the workload of the U.S. Olympic Committee; (2) that sports have begun to allow professional athletes to compete in some Olympic events; (3) that even sports still considered ''amateur'' have athletes who with greater financial opportunities and professional responsibilities than we ever considered in 1978; and (4) that the Paralympics—the Olympics for disabled amateur athletes—have grown significantly in size and prestige.

These and other changes led me to call for a comprehensive review of the Amateur Sports Act in 1994. The Commerce Committee has held three hearings since then. At the first and second—on August 11, 1994 and October 18, 1995—witnesses identified where the Amateur Sports Act was showing signs of strain. We postponed our work until after the 1996 Summer Olympics in Atlanta, but on April 21, 1997, held a third hearing at the Olympic Training Center in Colorado Springs to discuss solutions to the problems which had been identified.

By January, 1998, we'd refined the proposals into possible amendments to the Amateur Sports Act, which we discussed at length at an informal working session on January 26, 1998 in the Commerce Committee hearing room. The bill that Senator CAMPBELL and I introduced in May reflected the comments received in January, and excluded proposals for which consensus appeared unachievable. With the help of the U.S. Olympic Committee, the Athletes Advisory Council, the National Governing Bodies' Council, numerous disabled sports organizations, and many others, we continued to fine tune the bill until it was approved by the Commerce Committee in July.

I will include a longer summary of the bill for the RECORD, but will briefly explain its primary components: (1) the bill would change the title of the underlying law to the ''Olympic and Amateur Sports Act'' to reflect that more than strictly amateurs are involved now, but without lessening the amateur and grass roots focus reflected in the title of the 1978 Act; (2) the bill would add a number of measures to strengthen the provisions which protect athletes' rights to compete; (3) it would add measures to improve the ability of the USOC to resolve disputes—particularly close the Olympics, Paralympics, or Pan-American Games—and reduce the legal costs and administrative burdens of the USOC; (4) it would add measures to fully incorporate the Paralympics into the Amateur Sports Act, and update the existing provisions affecting disabled athletes; (5) it would improve the notification requirements when an NGB has been put on probation or is being challenged; (6) it would increase the reporting requirements of the USOC and NGB with respect to sports opportunities for women, minorities, and disabled individuals; and (7) it would require the USOC to report back to Congress in five years with any additional changes that may be needed to the Act.

Mr. President, I am the only Senator from President Ford's Commission on Amateur Sports who is still serving. It has therefore been very helpful to have Senator CAMPBELL—an Olympian himself in 1964—involved in this process. Over my objection he has included an amendment the package to name the Act after me. There are many others who deserve recognition for their work to bring about the 1978 Act, and since he has prevailed, I will accept this honor on their behalf. I ask unanimous consent that my summary of the major components of the bill be printed in the RECORD.

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

SUMMARY OF MAJOR PROVISIONS OF SECTION 142, THE OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

Section 142 of the omnibus bill is based on S. 2119, the Olympic and Amateur Sports Act Amendments of 1998, a bill introduced by Senators STEVENS and CAMPBELL on May 22, 1998 and approved by the Senate Commerce Committee in July of 1998. Summary of major provisions:

Olympic and Amateur Sports Act—The federal charter of the U.S. Olympic Committee (USOC) and framework for Olympic and amateur sports in the United States is commonly known as the ''Amateur Sports Act'' because most of its provisions were enacted as part of the Amateur Sports Act of 1978 (P.L. 95–606). Section 142 would officially rename the underlying Act as the ''Olympic and Amateur Sports Act.'' An amendment by Senator CAMPBELL changed section 142 to rename the underlying Act as the ''Ted Stevens Olympic and Amateur Sports Act.''

Paralympics—Section 142 incorporates the Paralympics into the Olympic and Amateur Sports Act, so that the Act clearly reflects the equal status between able-bodied and disabled athletes. It continues the original focus of the Act to integrate disabled sports with able-bodied National Governing Bodies (NGB's), but allows the USOC to recognize paralympic sports organizations if integration does not serve the best interest of a

sport or if the NGB for the sport objects to integration. The USOC is officially recognized as the national Paralympic committee.

Athletes—The amendments require the creation of an Athletes' Advisory Council and National Governing Bodies' Council to advise the USOC. The amendments also require that at least 20 percent of the USOC Board be comprised of active athletes. The USOC already carries out these provisions but is not required to do us under existing law. The amendments require the USOC to hire an ombudsman for athletes nominated by the Athletes' Advisory Council who will provide advice to athletes about the Olympic and Amateur Sports Act, the relevant constitution and bylaws of the USOC and NGBs, and the rules of international sports federations and the International Olympic Committee (IOC) and International Paralympic Committee (IPC), and who will assist in mediating certain disputes involving the opportunity of amateur athletes to compete. The amendments also require the NGBs to disseminate and distribute to athletes, coaches, trainers, and others, all applicable rules and any changes to the rules of the NGB, USOC, international sports federation, IOC, IPC, and Pan-American Sports Organization. Section 142 clarifies that NGBs must agree to submit to binding arbitration with respect to opportunity-to-compete issues at the request of the affected athlete under the Commercial Rules of the American Arbitration Association, but gives USOC authority to alter the Commercial Rules with the concurrence of the Athletes' Advisory Council and National Governing Bodies Council, or by a two-thirds vote of the USOC Board of Directors;

USOC Administrative/Cost Saving—The amendments allow the USOC to remove certain lawsuits against it to federal court. The amendments require the USOC to keep an agent for service of process only in the State of Colorado, rather than all 50 States. Under the amendments, the USOC is required to report to Congress only every four years, instead of annually. The report, however, is required to include data on the participation of women, disabled individuals, and minorities. Section 142 protects the USOC against court injunction in selecting athletes to serve on the Olympic, Paralympic, or Pan-American teams within 21 days of those games if the USOC's constitution and bylaws cannot provide a resolution before the games are to begin.

National Governing Bodies—The amendments in section 142 allow the USOC/NGBs not to send to the Olympics, Pan-American Games, or Paralympics athletes who haven't met the eligibility criteria of the USOC and appropriate NGB, even if not sending those athletes will result in an incomplete team. The amendments allow NGBs to establish criteria on a sport-by-sport basis for the ''active athletes'' that must comprise at least 20 percent of their boards of directors and other governing boards. Under the amendments, the USOC, AAC, and NGB Council will set guidelines, but an NGB will be able to seek exceptions to the guidelines from the USOC. Section 142 includes improved notification and hearing requirements by the USOC when an NGB is being challenged to be replaced or being put on probation.

Trademark—The amendment gives USOC trademark protection for the Pan-American Games, Paralympics, and symbols associated with each. As passed, it does not grandfather entities which have previously used these words or symbols. However, the USOC is directed not to pursue any actions against entities which already used such words or symbols on the date of the enactment of section 142 until Congress has the opportunity to legislatively address this matter. Section 142 also includes a provision to minimize the effects of the trademark protections in the Olympic and Amateur Sports Act on certain businesses in Washington State.

Special Report—The amendments in section 142 require the USOC to submit a report to Congress at the end of five years on the implementation of the provisions of section 142 and any additional changes the USOC believes are needed to the Olympic and Amateur Sports Act.

THE AMERICAN FISHERIES ACT

Mr. STEVENS. Mr. President, we've reached agreement to include the American Fisheries Act in the legislation being passed today (as title II of division C of the bill). This Act will not only complete the process begun in 1976 to give U.S. interests a priority in the harvest of U.S. fishery resources, but will also significantly decapitalize the Bering Sea pollock fishery.

The Bering Sea pollock fishery is the nation's largest, and its present state of overcapacity is the result of mistakes in, and misinterpretations of, the 1987 Commercial Fishing Industry Vessel Anti-Reflagging Act (the ''Anti-Reflagging Act''). In 1986, as the last of the foreign-flag fishing vessels in U.S. fisheries were being replaced by U.S.-flag vessels, we discovered that federal law did not prevent U.S. flag vessels from being entirely owned by foreign interests. We also discovered that federal law did not require U.S. fishing vessels to carry U.S. crew members, and that U.S. fishing vessels could essentially be built in foreign shipyards under the existing regulatory definition of ''rebuild.'' The goals of the 1987 Anti-Reflagging Act therefore were to: (1) require the U.S.-control of fishing vessels that fly the U.S. flag; (2) stop the foreign construction of U.S. flag vessels under the ''rebuild'' loophole; and (3) require U.S.-flag fishing vessels to carry U.S. crews.

Of these three goals, only the U.S. crew requirement was achieved. The Anti-Reflagging Act did not stop foreign interests from owning and controlling U.S. flag fishing vessels. In fact, about 30,000 of the 33,000 existing U.S.-flag fishing vessels are not subject to any U.S. controlling interest requirement. The Anti-Reflagging Act also failed to stop the massive foreign shipbuilding programs between 1987 and 1990 that brought almost 20 of the largest fishing vessels ever built into our fisheries as ''rebuilds.'' Today, half of the nation's largest fishery—Bering Sea pollock—continues to be harvested by foreign interests on foreign-built vessels that are not subject to any U.S.-controlling interest standard.

On September 25, 1997, I introduced the American Fisheries Act (S. 1221) to fix these mistakes. Senators from almost every fishing region of the country joined me in support of this effort, including Senator BREAUX, Senator HOLLINGS, Senator GREGG, Senator WYDEN, and Senator MURKOWSKI. As introduced, the bill had three primary objectives: (1) require the owners of all U.S.-flag fishing vessels to comply with a 75 percent U.S.-controlling interest standard (similar to the standard for other commercial U.S.-flag vessels that operate in U.S. waters); (2) remove from U.S. fisheries at least half of the foreign-built factory trawlers that entered the fisheries through the Anti-Reflagging Act foreign rebuild grandfather loophole and that continued to be foreign-owned on September 25, 1997; and (3) prohibit the entry of any new fishing vessels above 165 feet, 750 tons, or with engines that produce greater than 3,000 horsepower.

I am pleased to report that the package we are approving today accomplishes all three of the main objectives of S. 1221 as introduced.

I wish to thank Senator GORTON for his tremendous effort in this. For almost a decade now, he and I have had various disagreements about the Bering Sea pollock fishery and issues relating to the Anti-Reflagging Act. At the Commerce Committee hearing in March, and later, at an Appropriations Committee markup in July, Senator GORTON plainly expressed his concerns with S. 1221. In August, however, he spent considerable time with representatives from the Bering Sea pollock fishery and by sheer will managed to develop a framework upon which we could both agree. After he presented the framework to me, we convened meetings in September that went around the clock for five days. Those meetings included Bering Sea pollock fishery industry representatives, industry representatives from other North Pacific fisheries, the State of Alaska, North Pacific Council members, the National Marine Fisheries, the Coast Guard, the Maritime Administration, environmental representatives, and staff for various members of Congress and the Senate and House committees of jurisdiction.

At the end of those meetings, a consensus had been achieved among Bering Sea fishing representatives on an agreement to reduce capacity in the Bering Sea pollock fishery. For the next three weeks, we drafted the legislation to give effect to the agreement, and spent considerable time with the fishing industry from other fisheries who were concerned about the possible impacts of the changes in the Bering Sea pollock fishery. The legislation we are passing today includes many safeguards for other fisheries and the participants in those fisheries. By delaying implementation of some measures until January 1, 2000, it also provides the North Pacific Council and Secretary with sufficient time to develop safeguards for other fisheries.

This legislation is unprecedented in the 23 years since the enactment of the Magnuson-Stevens Act. With the council system, Congressional action of this type is not needed in the federal fisheries anymore. However, the mistakes in the Anti-Reflagging Act and the way it was interpreted created unique problems in the Bering Sea pollock fishery that only Congress can fix. The North Pacific Council simply does not have the authority to turn back the clock

by removing fishery endorsements, to provide the funds required under the Federal Credit Reform Act to allow for the $75 million loan to remove capacity, to strengthen the U.S.-control requirements for fishing vessels, to restrict federal loans on large fishing vessels, or to do many other things in this legislation.

While S.1221 as introduced was more modest in scope, I believe the measures in this agreement are fully justified as a one-time corrective measure for the negative effects of Anti-Reflagging Act.

I ask unanimous consent that the section-by-section analysis I have prepared be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY

DIVISION A

Section 120.—Appropriation

Section 120 appropriates a total of $30 million for the American Fisheries Act and other purposes. Specifically, it provides: (1) $20 million for the federal contribution to the reduction of capacity in the Bering Sea/Aleutian Islands (BSAI) pollock fishery; (2) $750,000 for the cost under the Federal Credit Reform Act of providing a $75 million loan to the fishing industry for the reduction of capacity in the BSAI pollock fishery; (3) $250,000 for the cost under the Federal Credit Reform Act of providing loans totaling $25 million to communities that participate in the western Alaska community development quota program to enable those communities to increase their participation in BSAI and other North Pacific fisheries; (4) $1,000,000 for the cost under the Federal Credit Reform Act of providing a loan of up to $100 million to the BSAI crab industry if a fishing capacity reduction program is implemented in that fishery under section 312(b) of the Magnuson-Stevens Act; (5) $6 million to the Secretary of Commerce for the costs of implementing subtitle II of the American Fisheries Act; and (6) $2 million to the Secretary of Transportation, primarily to the Maritime Administration for the costs of implementing subtitle I.

DIVISION C—TITLE II

SUBTITLE I—FISHERY ENDORSEMENTS

Section 201.—Short Title

This section establishes the title of the legislation as the ''American Fisheries Act.'' The provisions of title II of division C draw substantially from S. 1221 (also called the American Fisheries Act), which was introduced on September 25, 1997, and cosponsored by Senators Breaux, Murkowski, Hollings, Wyden, and Gregg. A hearing to review S. 1221 was held by the Senate Commerce Committee on March 26, 1998, and a related hearing was held by the House Resources Committee on June 4, 1998.

Section 202.—Standard for Fishery Endorsements

Subsection (a) of section 202 amends section 12102(c) of title 46, United States Code to require at least 75 percent of the interest in entities that own U.S.-flag vessels in the fishing industry (including fishing vessels, fish tender vessels and floating processors) to be owned and controlled by citizens of the United States. U.S.-flag vessels in the fishing industry that are owned by individuals must be owned by a citizen of the United States under the requirement of section 12102(a)(1) of title 46, which allows only an individual who is a citizen of the United States to own a vessel that is eligible for documentation. Section 12102(c) of title 46, as amended by subsection (a), would require section 2(c) of the Shipping Act, 1916 to be applied in determining whether an entity meets the 75 percent requirement. Section 2(c) of the Shipping Act, 1916 states the following:

''Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever [emphasis added] control of any interest in the corporation in excess of 25 per centum is confered upon or permitted to be exercised by any person who is not a citizen of the United States.''

The application of section 2(c) is intended to ensure that vessels with a fishery endorsement are truly controlled by citizens of the United States. The amendments made by subsection (a) make clear that the term 'corporation' as used in section 2(c) of the Shipping Act, 1916 means a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity for the purposes of applying section 2(c) to section 12102(c) of title 46, United States Code.

Subsection (a) also amends section 12102(c) (by adding a new paragraph (2)) to statutorily prohibit some of the types of control which are impermissible under the standard. A new paragraph (3) would prohibit vessels with a fishery endorsement from being leased to a non-citizen of the United States for use as a fishing vessel (to harvest fish) even if the control requirements are satisfied. A new paragraph (4) would allow a person not eligible to own a vessel with a fishery endorsement to nevertheless have an interest greater than 25 percent in the vessel, if the interest is secured by a mortgage to a trustee who is eligible to own a vessel with a fishery endorsement and who complies with specific requirements in the law and other requirements prescribed by the Secretary, and if the arrangement does not violate the 75 percent control requirements.

Subsection (a) amends section 12102(c) with a new paragraph (paragraph (5)) that would exempt the following vessels from the 75 percent standard, provided the owners of the vessels continue to comply with the fishery endorsement law in effect on October 1, 1998: (1) vessels engaged in fisheries under the authority of the Western Pacific Fishery Management Council; and (2) purse seine vessels engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty. Fishery endorsements issued by the Secretary for these vessels would be valid only in those specific fisheries and the vessels would not be eligible to receive a fishery endorsement to participate in other fisheries unless the owner complied with the 75 percent standard.

Paragraph (6) of section 12102(c), as amended by subsection (a), would prevent new large fishing vessels from entering U.S. fisheries, including former U.S.-flag fishing vessels that have reflagged in recent years to fish in waters outside the U.S. exclusive economic zone. Specifically, it would prohibit the issuance of fishery endorsements to vessels greater than 165 feet in registered length, of more than 750 gross registered tons, or that have an engine or engines capable of producing a total of more than 3,000 shaft horsepower unless: (1) the vessel had a valid fishery endorsement on September 25, 1997 (the day that S. 1221 was introduced), is not placed under foreign registry after the date of the enactment of the American Fisheries Act, and, if the vessel's fishery endorsement is allowed to lapse or is invalidated after the date of the enactment of the American Fisheries Act, an application for a new fishery endorsement is submitted to the Secretary within 15 business days; or (2) the owner of the vessel demonstrates to the Secretary that a regional fishery management council has recommended and the Secretary of Commerce has approved specific measures after the date of the enactment of the American Fisheries Act to allow the vessel to be used in fisheries under that council's authority. The regional councils have the authority and are encouraged to submit for approval to the Secretary of Commerce measures to prohibit vessels that receive a fishery endorsement under section 12102(c)(6) from receiving any permit that would allow the vessel to participate in fisheries under their authority, so that a vessel cannot receive a fishery endorsement through measures recommended by one council, then enter the fisheries under the authority of another Council.

Subsection (b) amends section 31322(a) of title 46, United States Code, to require that a preferred mortgage with respect to a vessel with a fishery endorsement have as a mortgagee only: (1) a person that meets the 75 percent U.S.-controlling interest requirement; (2) a state- or federally-chartered financial institution that meets a majority (more than 50 percent) U.S.-controlling interest requirement; or (3) a person using a trustee under the authority of, and in compliance with, section 12102(c)(4) of title 46, as amended by this Act.

Section 203—Enforcement of Standard

Subsection (a) of section 203 specifies that amendments in section 202 take effect on October 1, 2001, roughly three years from the date of the expected enactment of the American Fisheries Act. As introduced, S. 1221 would have required compliance with the new standard 18 months after enactment. The extended implementation period is intended to provide additional time for the fishing industry to prepare for the new requirements, as well as time for the Secretary of Transportation to prepare to carry out the requirements.

Subsection (b) requires final regulations to implement subtitle I to be published in the Federal Register by April 1, 2000, 18 months before the new requirements go into effect, and requires that the regulations specifically identify: (1) impermissible transfers of ownership or control; (2) transactions that will require prior agency approval; and (3) transactions that will not require prior agency approval. Subsection (b) prohibits the Secretary of Transportation from issuing any letter rulings before publishing the final regulations. It is the intent of Congress that there be a full opportunity for the public to comment on the regulations implementing the new requirements before any decisions are made with respect to specific vessels or vessel owners. During the implementation of the 1987 Anti-Reflagging Act, numerous letter rulings were issued by the Coast Guard prior to the publication of final regulations to implement the U.S.-control requirements, which limited the Coast Guard's ability to address valid concerns about the regulations. The implementation process set out in subsection (b) will provide an 18 month period for the Secretary of Transportation to promulgate regulations and fully review public

comments, followed by an 18 month period in which the fishing industry can obtain letter rulings before the new requirements take effect to avoid disruptions where possible. This framework allows time for the Secretary of Transportation to consult with Congress if the Secretary has concerns about Congressional intent or identifies any technical or other amendments needed to give full effect to the American Fisheries Act.

Subsection (c) requires the Maritime Administration (MarAd), rather than the Coast Guard, to administer the new U.S.-ownership and control requirements for vessels 100 feet in registered length and greater. MarAd will use a more thorough process than has been used in the past to ensure compliance with the new requirements. The process will be based on the process for federal loan guarantees and subsidies. The owners of vessels 100 feet and greater will be required to file an annual statement to demonstrate compliance with section 12102(c), based on an existing citizenship affidavit required to be filed under certain MarAd regulations. Paragraph (2) of subsection (c) directs MarAd to rigorously scrutinize transfers of ownership and control of vessels, and identifies specific areas in which MarAd should pay particular attention.

Subsection (d) directs the Secretary of Transportation to establish the requirements for the owners of vessels less than 100 feet to demonstrate compliance with the new requirements, and allows the Secretary to decide whether the Coast Guard or MarAd should be the implementing agency. Subsection (d) further directs the Secretary to minimize the administrative burden on individuals who own and operate vessels that measure less than 100 feet.

Subsection (e) directs the Secretary of Transportation to revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46 whose owner does not meet the 75-percent ownership and control requirement or otherwise fails to comply with that section.

Subsection (f) increases the penalties for fishery endorsement violations. Specifically, it would make the owner of a vessel with a fishery endorsement liable for a civil penalty of up to $100,000 for each day the vessel is engaged in fishing if the owner has knowingly falsified or concealed a material fact or knowingly made a false statement or representation when applying for or renewing a fishery endorsement. This increased penalty is intended to discourage willful noncompliance with the new requirements.

Subsection (g) provides limited exemptions from the new U.S.-control and ownership requirements in section 12102(c) of title 46 for the owners of five vessels (the EXCELLENCE, GOLDEN ALASKA, OCEAN PHOENIX, NORTHERN TRAVELER, and NORTHERN VOYAGER) under certain conditions. It exempts the owners after October 1, 2001 only until more than 50 percent of the interest owned and controlled in the entity that owns the vessel changes. The exemption applies only to the present owners, and the subsection not only requires all subsequent owners to comply the 75 percent standard, but requires even the present owners to comply if more than 50 percent of the interest owned and controlled in that owner changes after October 1, 2001. The exemption also automatically terminates with respect to the NORTHERN TRAVELER or NORTHERN VOYAGER if the vessel is used in a fishery other than under the jurisdiction of the New England or Mid-Atlantic fishery management councils, and automatically terminates with respect to the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX if the vessel is used to harvest fish.

Section 204—Repeal of Ownership Savings Clause

Section 204 would repeal the U.S.-ownership and control grandfather provision of the 1987 Anti-Reflagging Act, which was interpreted by the Coast Guard (and later upheld by the U.S. Court of Appeals for the D.C. Circuit, see 298 U.S. App. D.C. 331) to ''run with the vessel,'' thereby exempting about 90 percent of the U.S.-flag fishing industry vessels in existence today from any U.S.-ownership and control requirements. The American Fisheries Act and provisions of section 204 require that the owners of all vessels comply with the new U.S.-ownership and control requirements when those requirements take effect on October 1, 2001 (except as provided in section 12102(c)(5) of title 46, as amended by the American Fisheries Act (Hawaii exemption), and in section 203(g) of the American Fisheries Act (five specific vessels)).

SUBTITLE II—BERING SEA POLLOCK FISHERY

Section 205—Definitions

Section 205 provides definitions for the following terms used in subtitle II: (1) Bering Sea and Aleutian Islands Management Area; (2) catcher/processor; (3) catcher vessel; (4) directed pollock fishery; (5) harvest; (6) inshore component; (7) Magnuson-Stevens Act; (8) mothership; (9) North Pacific Council; (10) offshore component; (11) Secretary; and (12) shoreside processor.

Section 206—Allocations

Section 206 establishes new allocations in the pollock fishery in the BSAI beginning in 1999. Subsection (a) requires 10 percent of the total allowable catch of pollock to be allocated as a directed fishing allowance to the western Alaska community development quota program. Subsection (b) requires an additional amount from the total allowable catch to be allocated for the incidental catch of pollock in other groundfish fisheries (including the portion of those fisheries harvested under the western Alaska CDQ program). Of the remainder, subsection (b) requires 50 percent to be allocated as a directed fishing allowance for catcher vessels that deliver to shoreside processors, 40 percent to be allocated as a directed fishing allowance for catcher/processors and catcher vessels that deliver to catcher/processors, and 10 percent to be allocated as a directed fishing allowance for catcher vessels that deliver to motherships. Section 206 clarifies that the 10 percent of pollock allocated to the western Alaska CDQ program is allocated as a target species, consistent with the present method of allocation and with Congressional intent with the respect to the target species allocations required under section 305(i) of the Magnuson-Stevens Act for the western Alaska CDQ program. The section is intended to ensure the continuation of the present system under which the bycatch in the pollock CDQ fishery and the bycatch in the non-pollock groundfish CDQ fisheries are not counted against the CDQ allocations.

Section 207—Buyout

Subsection (a) directs the Secretary of Commerce, using special authority added in 1996 to the title XI loan program, to provide a loan of $75 million to the shoreside processors and catcher vessels that deliver to the shoreside processors to remove fishing capacity from the BSAI pollock fishery. Subsection (b) sets out the terms for the repayment of the loan, requiring the shoreside processors and catcher vessels that deliver to those processors to pay on an equal basis six-tenths (0.6) of one cent per pound of pollock beginning in the year 2000 and continuing until the loan is fully repaid (probably for around 25 years). Subsection (c) authorizes appropriations of an additional $20 million for the removal of fishing capacity from the BSAI pollock fishery, for a total of $95 million.

Subsection (d) establishes the payment formula for the removal of fishing capacity. Paragraph (1) of subsection (d) requires $90 million to be paid by the Secretary to the owners of the nine catcher/processors (also called factory trawlers) listed in section 209, subject to the conditions that one of the vessels (the AMERICAN EMPRESS) not be used outside of the U.S. exclusive economic zone (EEZ) to harvest stocks that occur within the U.S. EEZ, and that eight of the vessels be scrapped by December 31, 2000. Paragraph (2) of subsection (d) requires the payment of $5 million to either the owners of certain catcher/processors listed in section 208(e), or to owners of catcher vessels eligible under section 208(b) and the 20 catcher/processors eligible under section 208(e), depending on whether or not a contract to implement a fishery cooperative has been filed by December 31, 1998. These payments totaling $95 million are for the removal of fishing capacity only, and are in no way intended as compensation for any allocation adjustments, nor should they be construed to create any right of compensation for any allocation adjustments or any right, title, or interest in or to any fish in any fishery. Subsection (d) authorizes the Secretary of Commerce to reduce the payments by any amount owed to the federal government which has not been satisfied by the owners of the vessels.

Subsection (e) allows the Secretary to suspend any or all of the federal fishing permits held by the owners who receive payments under subsection (d) if the vessel identified in paragraph (1) of section 209 is used outside of the U.S. exclusive economic zone (EEZ) to harvest stocks that occur within the U.S. EEZ, or if the other eight catcher/processors identified in section 209 are not scrapped by December 31, 2000.

Subsection (f) allows the repayment period for the $75 million loan to the shoreside processors and catcher vessels that deliver to the shoreside processors to be paid back over as many as 30 years. The general authority for fishing capacity reduction loans under the title XI program allows a repayment period of only up to 20 years.

Subsection (g) directs the Secretary of Commerce to publish proposed regulations to implement the fishing capacity reduction program under title XI and under the Magnuson-Stevens Act by October 15, 1998. This program was enacted on October 11, 1996 as part of the Sustainable Fisheries Act (P.L. 104–297), yet the proposed regulations to implement the program have not yet been published for review. Subsection (g) is intended to bring about the expeditious publication of the proposed regulations.

Section 208—Eligible Vessels and Processors

Subsection (a) of section 208 establishes the criteria for the catcher vessels that, beginning on January 1, 2000, will be eligible to harvest the pollock allocated under section 206(b)(1) for processing by the inshore component. To be eligible a vessel must: (1) have delivered at least 250 metric tons of pollock in the BSAI directed pollock fishery (or at least 40 metric tons if the vessel is less than 60 feet in length overall) to the inshore component in one of 1996 or 1997, or before September 1, 1998; (2) be eligible for a license under the license limitation program; and (3) not be eligible under subsection (b) to deliver pollock to catcher/processors. Any vessel which cannot meet these criteria will be ineligible as of January 1, 2000 to harvest the pollock allocated for processing by the inshore component.

Subsection (b) lists the particular catcher vessels and establishes criteria for other

catcher vessels that, beginning on January 1, 1999, will be eligible to harvest pollock allocated under section 206(b)(2) for processing by catcher/processors. In addition to the seven listed vessels, any catcher vessel which (1) delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the BSAI directed pollock fishery to catcher processors in 1997, and (2) is eligible for a license under the license limitation program, will also be eligible as of January 1, 1999 to harvest pollock allocated for processing by catcher/processors. Any vessel which is not listed or cannot meet these criteria will be ineligible as of January 1, 1999 to harvest the pollock allocated for processing by catcher/processors.

Subsection (c) lists the particular catcher vessels and establishes criteria for other catcher vessels that, beginning on January 1, 2000, will be eligible to harvest pollock allocated under section 206(b)(3) for processing by motherships. In addition to the twenty listed vessels, any catcher vessel which (1) delivered at least 250 metric tons of pollock from the BSAI directed pollock fishery to motherships in one of 1996 or 1997, or before September 1, 1998, (2) is eligible for a license under the license limitation program, and (3) is not eligible under subsection (b) to deliver pollock to catcher/processors, will also be eligible as of January 1, 2000 to harvest pollock allocated for processing by motherships. Any vessel which is not listed or cannot meet these criteria will be ineligible as of January 1, 2000 to harvest the pollock allocated for processing by motherships.

Subsection (d) lists the three motherships that will be eligible beginning on January 1, 2000 to process the pollock allocated under section 206(b)(3). Any vessel which is not listed will be ineligible as of January 1, 2000 to process the pollock allocated for processing by motherships in the BSAI directed pollock fishery.

Subsection (e) lists the particular catcher/processors that, beginning on January 1, 2000, will be eligible to harvest pollock allocated under section 206(b)(2) for processing by catcher/processors. In addition to the twenty vessels listed, under paragraph (21) of subsection (e), any catcher/processor which harvested more than 2,000 metric tons of pollock in the BSAI directed pollock fishery in 1997, and is eligible for a license under the license limitation program, will be eligible to harvest a small portion of the pollock allocated under section 206(b)(2). The vessel or vessels eligible under paragraph (21) are prohibited from harvesting more than one-half percent in the aggregate of the pollock allocated under subsection 206(b)(2). This provision is intended to allow a small number of catcher/processors (perhaps as few as one) to continue to harvest the relatively small amount of pollock they harvested in the past while relying primarily on other fisheries. The last sentence of subsection (e) would allow the catcher/processors listed in paragraphs (1) through (20) to continue to be eligible for a fishery endorsement even if it is ultimately determined that the vessel did not satisfy the foreign rebuild grandfather provisions of the 1987 Anti-Reflagging Act—provided that the owner of the vessel complies with all other requirements for a fishery endorsement. The removal of nine catcher/processors in section 209 is intended to address the overcapacity concerns that resulted from the entry under the Anti-Reflagging Act of foreign built vessels contrary to Congressional intent.

Subsection (f) establishes the criteria for shoreside processors to which the catcher vessels eligible under section 208(a) may deliver pollock from the BSAI directed pollock fishery beginning on January 1, 2000. To be eligible, a shoreside processor (which may include moored vessels) must have processed more than 2,000 metric tons of pollock in the inshore component of the BSAI directed pollock fishery during each of 1996 and 1997. Any shoreside processor that processed pollock in the inshore component in 1996 or 1997, but processed less than 2,000 metric tons, would be allowed under paragraph (1)(B) to continue processing up to 2,000 metric tons per year after January 1, 2000. Paragraph (2) of subsection (f) would allow the North Pacific Council to recommend (and the Secretary to approve) the entry of additional shoreside processors to process the allocation under section 206(b)(1) if the total allowable catch for pollock increases by more than 10 percent above the 1997 total allowable catch, or if any of the shoreside processors eligible to process more than 2,000 metric tons is lost.

Subsection (g) establishes requirements for the replacement of any of the vessels eligible to harvest pollock under section 208 if the vessel is lost by an event other than the willful misconduct of the owner or agent of the owner.

Subsection (h) allows vessels and shoreside processors for which an application for eligibility under section 208 has been filed to be allowed to participate in the BSAI directed pollock fishery until the Secretary of Commerce can make a final determination about the eligible of the vessel or shoreside processor. This subsection is intended to minimize disruptions in the event the Secretary is unable to complete determinations for all vessels and processors prior to the effective dates of the eligible criteria.

Subsection (i) clarifies that eligibility under section 208 does not confer any right of compensation if the eligibility is subsequently revoked or limited, does not create any right to any fish in any fishery, and does not waive any provision of law otherwise applicable to an eligible vessel or shoreside processor. Section 208 simply prevents the participation of vessels and shoreside processors not listed or that do not meet the eligibility criteria, and ineligible vessels and shoreside processors similarly have no right of compensation or right to any fish of any kind.

Section 209—List of Ineligible Vessels

Section 209 identifies nine catcher/processors that, effective December 31, 1998, are permanently ineligible for fishery endorsements. Section 209 also extinguishes all claims associated with the vessels that could qualify the owners of the vessels for any limited access system permit.

Section 210—Fishery Cooperative Limitations

Subsection (a) of section 210 requires all contracts implementing a fishery cooperative in the BSAI directed pollock fishery and all material modifications to those contracts to be filed with the North Pacific Council and Secretary of Commerce, and requires information about the contracts to be made available to the public. With the limitations in section 208 on further entry into the BSAI directed pollock fishery, the American Fisheries Act increases the likelihood that fishery cooperatives will be formed under the 1934 Act (15 U.S.C. 521 et seq.) that allows fishermen to ''act together . . . in collectively catching, producing, preparing for market, processing, handling, and marketing'' fish and fish products without being subject to federal anti-trust laws. The 1934 Act does not require the public disclosure of the details from contracts implementing fishery cooperatives, nor does it include many of the other restrictions and limitations in section 210 that would apply to fishery cooperatives in the BSAI directed pollock fishery. Subsection (a) will require at a minimum the public disclosure of the parties to the contract, the vessels involved, the amount of fish each vessel is expected to harvest, and, after the fishing season, the amount of fish (including bycatch) each vessel actually harvested. In addition, the North Pacific Council and Secretary may require other information that they deem appropriate from participants in a fishery cooperative for public disclosure.

Subsection (b) allows the catcher vessels that deliver pollock to shoreside processors to form fishery cooperatives with fewer than the whole class of vessels eligible under section 208(a) so that they will be able to compete in the event that fishery cooperatives are formed in the other BSAI directed pollock fishery sectors which have fewer vessels. Paragraph (1) requires the Secretary to establish a separate allocation within the allocation under section 206(b)(1) if at least 80 percent of the catcher vessels that delivered most of their pollock in the previous year to a shoreside processor decide to form a fishery cooperative to deliver pollock to that shoreside processor and that processor has agreed to process the pollock. The allocation for those vessels would be equal to the average percentage those vessels caught in the aggregate in 1995, 1996, and 1997. If a fishery cooperative is formed, other catcher vessels that delivered most of the their catch to that shoreside processor would be required to be allowed to join the fishery cooperative under the same terms and conditions as other participants at any time before the calendar year in which fishing under the cooperative will begin. Vessels which participate in a fishery cooperative will not be allowed to harvest any of the pollock that remains in the ''open access'' portion of the allocation under section 206(b)(1). The ''open access'' portion will be equal to the average percentage that the vessels which do not elect to participate in fishery cooperatives caught in the aggregate in 1995, 1996, and 1997. The vessels eligible to harvest pollock allocated for processing by shoreside processors would continue to have the authority to form a fishery cooperative on a class-wide basis as well.

Subsection (c) requires at least 8.5 percent of the pollock allocated under section 206(b)(2) for processing by catcher/processors to be available for harvesting by the catcher vessels eligible under section 208(b). This requirement will help ensure that the traditional harvest of those catcher vessels will not be reduced. The catcher vessels may participate in a fishery cooperative with the 20 catcher/processors eligible under section 208(e), but may participate during 1999 only if the contract implementing the fishery cooperative includes penalties to prevent the catcher vessels from exceeding their traditional harvest levels in other fisheries. Under a fishery cooperative, vessel owners have more control over the time during which they will fish, and without these provisions in 1999, the catcher vessels could target other fisheries during the time they would traditionally be participating in the BSAI directed pollock fishery. By the year 2000, the North Pacific Council will have been able to recommend (and the Secretary to approve) any measures needed to protect other fisheries.

Subsection (d) extends the 1934 fishery cooperative authority to motherships for purposes of processing pollock if 80 percent of the catcher vessels eligible to harvest the pollock allocated for processing by motherships decide to form a fishery cooperative. The possible extension of this authority would not begin until January 1, 2000, and would remain in effect only for the duration of the contract implementing the fishery cooperative. If a fishery cooperative is formed, other catcher vessels eligible to harvest the pollock allocated for processing by

motherships would be required to be allowed to join the fishery cooperative under the same terms and conditions as other participants at any time before the calendar year in which fishing under the cooperative will begin.

Subsection (e) prohibits any individual or any single entity from harvesting more than 17.5 percent of the pollock in the BSAI directed pollock fishery to ensure competion. Presently in that fishery, a single entity in that fishery harvests close to 30 percent of the pollock in the BSAI directed pollock fishery. In addition, paragraph (2) of subsection (e) directs the North Pacific Council to establish an excessive share cap for the processing of pollock in the BSAI directed pollock fishery. Paragraph (3) requires any individual or entity believed by the North Pacific Council or Secretary to have exceeded the harvesting or processing caps to submit information to MarAd, and requires MarAd make a determination as soon as possible. If an individual or entity owns 10 percent or more of another entity, they will be considered to be the same entity as that other entity for the purposes of the harvesting and processing caps.

Subsection (f) requires contracts that implement fishery cooperatives in the BSAI directed pollock fishery to include clauses under which the participants will pay landing taxes established under Alaska law for pollock that is not landed in the State of Alaska. The failure to include the clause or to pay the landing taxes results in the permanent revocation of the authority to form fishery cooperatives under the 1934 Act for the parties to the contract implement the fishery cooperative and the vessels involved in the fishery cooperative.

Subsection (g) specifies that the violation of any of the provisions of section 210 (fishery cooperative limitations) or section 211 (protections for other fisheries and conservation measures) constitutes a violation of the prohibited acts section of the Magnuson-Stevens Act and is subject to the civil penalties and permit sanctions under section 308 of the Magnuson-Stevens Act. In addition, subsection (g) specifies that any person found to have violated either of section 210 or 211 is subject to the forfeiture of any fish harvested or processed during the commission of the violation.

Section 211—Protections for Other Fisheries; Conservation Measures

Subsection (a) of section 211 directs the North Pacific Council to submit measures for the consideration and approval of the Secretary of Commerce to protect other fisheries under its authority and the participants in those fisheries from adverse impacts caused by the subtitle II of the American Fisheries Act or by fishery cooperatives in the BSAI directed pollock fishery. The Congress intends for the North Pacific Council to consider particularly any potential adverse effects on fishermen in other fisheries resulting from increased competition in those fisheries from vessels eligible to fish in the BSAI directed pollock fishery or in fisheries resulting from any decreased competition among processors.

Subsection (b) includes specific measures to restrict the participation in other fisheries of the catcher/processors eligible to participate in the BSAI directed pollock fishery (other than the vessel or vessels eligible under paragraph (21) of section 208(e)). While these types of limitations are appropriately for the North Pacific Council to develop, the catcher/processors eligible under section 208(e) may form a fishery cooperative for 1999 before the North Pacific Council can recommend (and the Secretary approve) necessary limitations. The restrictions in subsection (b) would therefore take effect on January 1, 1999 and remain in effect thereafter unless the North Pacific Council recommends and the Secretary approves measures that supercede the restrictions. Subparagraphs (A) and (B) of paragraph (2) prohibit the catcher/processors eligible to participate in the BSAI directed pollock fishery from exceeding the aggregate amounts of targeted species and bycatch in other fisheries that catcher/processors from the BSAI directed pollock fishery caught on average in 1995, 1996, and 1997. Subparagraph (C) prohibits those catcher/processors from fishing for Atka mackerel in the eastern area of the BSAI or from exceeding specific percentages in the central area or western area. The limitations in subparagraphs (A), (B), and (C) do not ensure that the BSAI pollock-eligible catcher/processors will be able to harvest any amount of fish, they simply establish additional caps after which those catcher/processors, as a class, will be prohibited from further fishing.

Paragraph (3) of section 211(b) prohibits the catcher/processors eligible to participate in the BSAI directed pollock fishery from processing any of the pollock allocated for processing by motherships or shoreside processors in the BSAI directed pollock fishery and from processing any species of crab harvested in the BSAI. Paragraph (4) prohibits the BSAI pollock-eligible catcher/processors from harvesting any fish in the Gulf of Alaska, from processing any groundfish harvested in area 630 of the Gulf of Alaska, from processing any pollock in the Gulf of Alaska other than as bycatch, and from processing in the aggregate a total of more than 10 percent of the cod harvested in areas 610, 620, and 640 of the Gulf of Alaska. Paragraph (5) prohibits BSAI-eligible catcher/processors and motherships from harvesting or processing fish in any fishery under the authority of another regional fishery management council unless the council authorizes their participation, with the exception of the Pacific whiting fishery under the Pacific Council's authority, where the catcher/processors and motherships are already participating.

Paragraph (6) of section 211(b) requires the BSAI pollock eligible catcher/processors to carry two observers on board and to install scales on board and weigh all fish harvested by the vessel while participating in pollock and other groundfish fisheries under the North Pacific Council's authority. The requirements of paragraph (6) take effect in 1999 for catcher/processors that will harvest pollock allocated to the western Alaska community development quota program, and in 2000 for the other BSAI pollock-eligible catcher/processors.

Subsection (c) of section 211 requires the North Pacific Council to submit measures by July 1, 1999 to prevent the expanded participation of BSAI pollock-eligible catcher vessels in other fisheries as a result of BSAI pollock fishery cooperatives and to protect processors in other fisheries from any adverse effects caused by subtitle II of the American Fisheries or by BSAI pollock fishery cooperatives. Paragraph (1) of subsection (c) allows the Secretary to restrict or change the BSAI pollock fishery cooperative authority for catcher vessels delivering to shoreside processors (including by allowing those vessels to deliver to shoreside processors other than those which are BSAI pollock-eligible) if the North Pacific Council does not recommend measures by July 1, 1999 or if the Secretary determines that those measures are not adequate.

Paragraph (2)(A) prohibits the BSAI pollock-eligible motherships and shoreside processors from processing in the aggregate more crab in fisheries under the North Pacific Council's authority than the percentage of crab those motherships and shoreside processed in the fishery in the aggregate and on average in 1995, 1996, and 1997. The intent of paragraph (2) is to protect processors that are not BSAI pollock-eligible from increased competition from the shoreside processors who may have a financial advantage as a result of the increased pollock allocation under the American Fisheries Act or by receiving pollock under a fishery cooperative. Paragraph (2)(B) directs the North Pacific Council to establish excessive share harvesting and processing caps in the BSAI crab and non-pollock groundfish fisheries for similar purposes.

Paragraph (3) of subsection (c) directs the Pacific Council to submit any measures that may be necessary to protect fisheries under its authority by July 1, 2000 and allows the Secretary of Commerce to implement measures if the Pacific Council does not submit measures or if the measures submitted are determined by the Secretary to be inadequate.

Subsection (d) give the North Pacific Council the authority with approval of the Secretary to publically disclose information on a vessel-by-vessel basis from any of the groundfish fisheries under the Council's authority that may be useful in carrying out the requirements of the Magnuson-Stevens Act which require the avoidance of bycatch. The North Pacific Council is directed to use this new authority to the maximum extent necessary to fully implement the bycatch measures added to the Magnuson-Stevens Act by the 1996 Sustainable Fisheries Act.

Subsection (e) creates a special federal loan program within the existing title XI loan program to allow communities eligible to participate in the western Alaska community development quota program to increase their participation in the Bering Sea pollock fishery by purchasing all or part of an ownership interest in vessels and shoreside processors.

Section 212—Restriction on Federal Loans

Section 212 amends the title XI loan program to prohibit federal loans for the construction or rebuilding of vessels that will be used to harvest fish and that are greater than 165 feet, of more than 750 tons, or that have an engine or engines capable of producing a total of more than 3,000 shaft horsepower. The prohibition does not apply to vessels to be used only in the menhaden fishery or a tuna purse seine fishery outside the U.S. EEZ or in the area of the South Pacific Regional Fisheries Treaty.

Section 213—Duration

Subsection (a) of section 213 explains that the provisions of the American Fisheries Act take effect upon its enactment, except where other effective dates are specified. The allocations in section 206, BSAI pollock eligibility criteria/lists of vessels in section 208, and fishery cooperative limitations in section 210 remain in effect only until December 31, 2004, and are repealed on that date except to the extent the North Pacific Council has recommended, and the Secretary has approved measures to give effect to those sections thereafter.

Subsection (b) clarifies that except as specifically provided, none of the provisions in subtitle II of the American Fisheries Act limit the authority of the North Pacific Council or the Secretary of Commerce under the Magnuson-Stevens Act. Subsection (c) sets out specific circumstances under which the North Pacific Council may submit measures to supersede provisions of subtitle II. The Council may submit measures to supersede any of the provisions of subtitle II, with the exception of the provisions of section 206 (BSAI pollock allocations) and section 208 (eligibility criteria/vessels), for conservation

purposes, to mitigate adverse effects in other fisheries or in the BSAI pollock fishery, or to mitigate adverse effects on the participants in the BSAI directed pollock fishery that only own only one or two vessels. If the Council does submit such measures, the measures must take into account all factors affecting the fisheries and be imposed fairly and equitably to the extent practicable among and within the sectors in the BSAI directed pollock fishery. With respect to the allocations in section 206, the Council may submit measures to increase the allocation to the western Alaska community development quota program for the year 2002 and thereafter if the Council determines that the program has been adversely affected by any provision of subtitle II of the American Fisheries Act. To the extent of its authority under the Magnuson-Stevens Act, the Council has general authority to submit measures that affect or supersede the fishery cooperative limitations in section 210. Paragraph (3) of section 213(c) identifies the specific authority of the Council to submit different catch-year criteria for the calculation of the allocations for catcher vessels that deliver to shoreside processors and that form fishery cooperatives.

Subsection (d) requires the North Pacific Council to report to the Secretary of Commerce and to the Congress by October 1, 2000 on the implementation and effects of subtitle II of the American Fisheries Act.

Subsection (e) requires the General Accounting Office to submit a report to the North Pacific Council and the Secretary of Commerce by June 1, 2000 on whether subtitle II of the American Fisheries Act has negatively affected the market for fillet or fillet blocks, and requires the North Pacific Council to submit for Secretarial approval any measures it determines appropriate to mitigate any negative effects that have occurred.

Section (f) specifies that if any of the provisions of the American Fisheries Act are held to be unconstitutional, the remainder of the Act shall not be affected.

Section (g) specifies that in the event the new U.S. ownership and control requirements or preferred mortgage requirements of subtitle I of the American Fisheries Act are deemed to be inconsistent with an existing international agreement relating to foreign investment with respect to a specific owner or mortgagee on October 1, 2001 of a vessel with a fishery endorsement, that the provision shall not apply to that specific owner or mortgagee with respect to that particular vessel to the extent of the inconsistency. Section (g) does not exempt any subsequent owner or mortgagee of the vessel, and is therefore not an exemption that ''runs with the vessel.'' In addition, the exemption in section (g) ceases to apply even to the owner on October 1, 2001 of the vessel if any ownership interest in that owner is acquired by a foreign individual or entity after October 1, 2001.

Customary international law and the United Nations Conference on the Law of the Sea (article 62) clearly protect the right of a coastal nation to harvest the living resources of its exclusive economic zone. Many of the bilateral treaties to which the United States is a party that might otherwise involve U.S. fisheries or investments in U.S. fisheries include specific exemptions for fishing vessels and for measures to protect the fishery resources. For example, the Treaty of Friendship, Commerce, and Consular Rights between the United States and the Kingdom of Norway (1932) provides that ''[n]othing in this Treaty shall be construed to restrict the right of either [the United States or Norway] to impose, on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant health or life'' (emphasis added). The Treaty and Protocol between the United States and Japan Regarding Friendship, Commerce, and Navigation (1953) provides that ''Notwithstanding any other provision of the present Treaty, each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade, national fisheries, and inland navigation'' (Article XIX(6); emphasis added). Similarly, the Agreement between the United States and the Republic of Korea Regarding Friendship, Commerce, and Navigation (1957) provides that ''each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade, inland navigation, and national fisheries'' (Article XIX(3); emphasis added).

While Congress does not believe that any of the requirements of the American Fisheries Act violate any international agreements relating to foreign investment to which the United States is a party, subsection (g) is included as a precaution. If the citizenship or preferred mortgage requirements in subtitle I are deemed to be inconsistent with such an international agreement, only the current owner on October 1, 2001 to which the international agreement applies will be grandfathered, and to the extent that any interest in that owner/entity is sold, the interest must be sold to citizens of the United States until the owner/entity comes into compliance with the 75 standard.

Mr. HARKIN. Mr. President, the legislation that is pending provides funding for nearly all domestic discretionary programs for the upcoming year. As we know, it combines 8 of the 13 regular spending bills, as well as a large number of other unrelated legislative provisions.

It truly is a legislative behemoth, and is one which I have very mixed feelings about. One part I don't have any mixed feelings about is the process, particularly for the unrelated nonappropriation measures. It is the worst that I have witnessed in my years in Congress. Here we have a 40-pound, nearly 4,000-page bill which not only includes over half of the year's appropriations bills, but countless other unrelated measures, many of which were never debated and never brought to the floor of the Senate. Then we are given less than a day—just a matter of hours—to look it over.

That certainly is not any way to do the people's business. In fact, I say that the Republican leadership in the Senate and the House has shown a tremendous disrespect for the taxpayers' dollars.

This is really a cavalier treatment of taxpayers dollars when you think about the way this bill was put together. Nobody knows how much is in there. Billions of dollars are being spent, and a lot of it was never debated or shown the light of day in either the House or the Senate. The taxpayers deserve a little bit better treatment for their tax dollars than that.

Before I get into my other concerns, I want to speak about what I see as one of the true bright spots, which will lead me to vote in favor of the overall measure, even with all my misgivings about it, and that is the progress it makes toward improving the quality and affordability of education, health care and job training for American families.

As the ranking member on the Appropriations Subcommittee on the Department of Health and Human Services and Education, I want to focus my comments initially on that section of the bill.

First, I want to thank Senator SPECTER for his outstanding leadership on the legislation. He has worked tirelessly to put together a strong, bipartisan bill. I want to publicly thank Bettilou Taylor, Jim Sourwine, Jack Chow, Mary Deitrich, Mark Laisch and Jennifer Stiefel. I also thank those on my staff, on the minority side—Marsha Simon and Ellen Murray—for their long and hard work in taking care of all of the important details of the legislation. They literally have been here around the clock for the last several weeks putting the bill and report together.

I also extend my sincere appreciation to our colleagues in the House—Chairman PORTER and ranking member OBEY. There were many significant differences between our two bills and it required much work to bridge the gulf. I appreciate their willingness to work with us to craft a strong Labor-HHS-Education bill to send to the President.

The Labor-HHS-Education component of this bill is notable in a number of areas. It makes many vital investments in the human infrastructure of our Nation.

Mr. President, I am very pleased that the bill before us provides the biggest funding increase in history in our search for medical breakthroughs. Almost every day, the paper has a new story about one advance or another in medical research. New therapies, more effective intervention and treatment strategies—we are making great progress. We aren't suffering from a shortfall of ideas, but a shortfall of resources.

At the present time, the National Institutes of Health is able to fund only one-fourth of their peer-reviewed grant proposals. As a result, too many worthy projects never get off the ground. The tragedy is that the 3 of 4 unfunded grants could have led to a cure for breast cancer, or a more effective treatment for Parkinson's disease, or a way to reverse spinal chord injury.

This must change, and the pending legislation provides a generous 15 percent increase for the NIH and is the first step toward doubling the budget for biomedical research.

Another important victory for improved health is the inclusion of a proposal I authored to substantially improve research on complementary and alternative medicine. Consumers need and deserve reliable information about these promising therapies. And, if appropriately implemented, the new National Center for Complementary and Alternative Medicine at NIH will provide just that.

Mr. President, one of the great disappointments of the 105th Congress was the defeat by the Republican leadership of comprehensive legislation to protect

children from tobacco. Their action is costly: Every day, more than 3,000 young people will start smoking, and one-third will die prematurely from tobacco-related diseases.

I am pleased, however, that the bill before us makes at least a very modest downpayment on fighting tobacco. It provides $46 million to fund antitobacco activities—the largest increase for preventing and treating the addiction, disease, and death caused by tobacco use. The CDC will receive additional funding to help communities keep tobacco products out of the hands of children, help smokers kick the habit, and combat the tobacco industry's daily multimillion dollar misinformation campaigns.

I want to be clear, however, that this is by no means a replacement for comprehensive reform. We should make reform of the tobacco scourge a major agenda item for the next Congress.

Another important drug problem—and tobacco is a drug problem—facing us in this Nation is the scourge of methamphetamine. It is ravaging my State and other States in the Midwest. So I am pleased that the bill before us includes my proposal to expand support for prevention and treatment of meth addiction. It also contains a significant increase to boost our law enforcement efforts to combat this problem. But I am extremely disappointed that the leadership blocked inclusion of my Comprehensive Methamphetamine Control Act. Their action, I think, is extremely shortsighted and is a defeat for our efforts to get tougher on methamphetamine.

The bill before us includes the important initiative to combat fraud, waste and abuse in Medicare. It would expand nationwide a program I started 2 years ago to train retired nurses, doctors, accountants, insurance writers, and other professionals to be expert resources in their local communities to help fellow seniors identify and report suspect cases of abuse. The Senior Waste Patrol, as it is known, has been a great success in Iowa and the 11 other States in which it now exists on a pilot program basis. This bill, as I said, will extend the Senior Waste Patrol to every State in the Nation. I believe it will be one of the keys that we will have in really cutting down on the waste, fraud and abuse that is so rampant in Medicare.

Mr. President, for the last several years, I have worked to eradicate abusive child labor around the world, and I am pleased that the legislation provides resources to help end this exploitative practice here at home and around the world.

The bill signals a strong commitment by the United States to ending this unconscionable practice of child labor by providing a $27 million increase, from $3 million to $30 million, to the International Programme for the Elimination of Child Labor, otherwise known as IPEC. In the past, IPEC initiatives have been instrumental in reaching agreements in Bangladesh for child garment workers, and in Pakistan for the children making soccer balls. As a result, thousands of these children in both countries have been moved from factories to schools. This increase for IPEC will ensure that we can do in those countries and in other countries to get child laborers out of factories and into schools.

However, if we intend to lead the world in ending this terrible practice of child labor, we must here lead by example. I am deeply concerned about the rising incidence of child labor in our own country. Although no official estimate exists, studies place the number of illegally employed children in the U.S. at between 300,000 a 800,000. To respond to the problem, this legislation has fully funded the President's child labor initiative by providing $15 million for migrant education and $5 million for at-risk youth in agriculture. Additionally, $4 million was added for 36 new investigators to enforce child labor laws. We must make eradication of child labor a top priority, and these resources will make that possible.

I do want to publicly thank and compliment Secretary of Labor Herman for her leadership in this area and for her focus and determination to crack down on the use of child labor in our country. She has taken great leadership on this. The additional funding we put in this bill will enable her to do her job even more effectively.

Mr. President, this legislation makes some significant investments in education, which are critical to the future of our country. The bill provides an additional $2.1 billion—that's $2.1 billion more than last year—to improve our Nation's schools and help them meet the needs of our schoolchildren.

There are many problems facing our nation's schools. 14 million students attend classes in schools that are literally crumbling around them; too many students are in classes that are too big; and too many children do not have a safe place to be in the hours after school. We can and must address these important matters.

The pending legislation provides us with a good foundation. The bill provides additional resources through the Title I program to reduce class size and it fully funds the President's after-school initiative.

However, I was disappointed that we could not hold on to the funds provided in the Senate bill to help modernize and repair our nation's crumbling schools.

I might add that I just came back, like so many Senators, last night from my home State to discover that in my State of Iowa over one-third—36 percent—of the elementary and secondary schools in Iowa don't even meet the fire and safety codes. I know that our State is very good. If it is that bad in Iowa, it has to be bad in other States, too.

That is why the money is needed so desperately from the Federal Government—to help rebuild the infrastructure of our schools, not just in meeting the fire and safety codes but to make sure that they are wired, that they get the technology that they need to hook-up to the Internet, and to get the technology to our kids in elementary and secondary schools.

The legislation also makes other important investments in education. The bill provides a $500 million increase for special education and additional funds for Head Start to make sure that students are ready to start school.

Education must be our Nation's top priority and while I am pleased with the investments made in this legislation, we must recognize that this is just the first step forward. Our future depends on us to do even more next year and the year after.

The bill provides new funding to higher and train up to 100,000 new teachers, increases the maximum Pell grant to its highest level ever, $3,125, and provides additional resources for child care and eliminates cuts to worker protection programs.

Mr. President, I am also pleased that the final bill restored the massive cuts contained in the House bill for the Summer Jobs Program and the Low-Income Heat and Energy Assistance Program. These cuts in the House bill—not in the Senate bill—unfairly targeted some of our Nation's most needy citizens, and had to be reversed. I am glad it was reversed.

As has been the case in recent years, the appropriations committees was confronted with a number of legislative riders. This is a source of continuing frustration for our committee because we continue to believe there should be no authorizing legislation on appropriations bills.

The House bill included an amendment to the Individuals With Disabilities Education Act, or IDEA, that would have given school officials expanded authorities to remove children with disabilities from school. I vigorously opposed that amendment, because it would have removed critical civil rights protections for children with disabilities—this on the heels of just a little over a year ago, after years of negotiation, when Congress enacted the 1997 amendments to IDEA. These amendments made a number of important changes to the law, including provisions governing the discipline of children with disabilities. The '97 amendments give schools new tools for addressing the behavior of children with disabilities, including more flexible authorities for removing children with disabilities engaged in misconduct involving weapons, drugs, or behavior substantially likely to result in injury. More information is needed on the implementation of these amendments before any additional changes to the law are considered by the Congress.

For example, I keep hearing from some people that if a child with a disability brings a gun to school there is nothing they can do with them, but if

a nondisabled kid brought a gun to school they could expel them. Nothing could be further from the truth. If any child, such as a child with disabilities, under IDEA brings a gun, a weapon, a drug to school, they can be immediately dismissed, expelled, for up to 10 days, and then placed in an alternative setting for 45 more days. Again, people can expel a child right away who brings a gun or a dangerous weapon to school.

I just say that as a way of pointing out that there is a lot of misinformation out there about the law, because the law was changed last year, and the rules and regulations have not yet been promulgated by the Department of Education. Hopefully, that will be done prior to the end of this year.

Again, I would like to close these remarks on this section of the bill by thanking Chairman SPECTER for his outstanding leadership throughout the process of putting this part of the bill together.

I therefore support the recommendation of the conferees for a GAO study on the discipline of children with disabilities in lieu of making any changes to the authorizing legislation itself. The conference agreement charges GAO with obtaining information on how the '97 amendments have affected the ability of schools to maintain safe school environments conducive to learning. In order to enable the Congress to differentiate between the need for amendments as opposed to better implementation of the law, it is critical that GAO look at the extent to which school personnel understand the provisions in the IDEA and make use of the options available under the law.

For example, in the past, there has been considerable confusion and misunderstanding regarding the options available to school districts in disciplining children with disabilities. The GAO should determine whether schools are using the authorities currently available for removing children. These include: removing a child for up to 10 school days per incident; placing the child in an interim alternative educational setting; extending a child's placement in an interim alternative educational setting; suspending and expelling a child for behavior that is not a manifestation of the child's disability; seeking removal of the child through injunctive relief; and proposing a change in the child's placement.

In addition, the law now explicitly requires schools to consider the need for behavioral strategies for children with behavior problems. I continue to believes that the incidence of misconduct by children with disabilities is closely related to how well these children are served, including whether they have appropriate individualized education plans, with behavioral interventions where necessary. Again, to enable the Congress to interpret information on the effect of the IDEA on dealing with misconduct, this GAO report should provide information on the extent to which the schools are appropriately addressing the needs of students engaged in this misconduct. I would be opposed to giving school officials expanded authority for removing children who engage in misconduct, if such misconduct could be ameliorated by giving these children the services to which they are entitled. We need information on the effect of appropriate implementation of the IDEA on the ability of schools to provide for safe and orderly environments, and that is what the GAO study should evaluate.

Finally on this matter, I want to emphasize that the provisions in the IDEA for removing children are only needed in those cases in which parents and school officials disagree about a proposed disciplinary action. Therefore, it is important that the GAO study also provides us information on the extent to which parents are requesting due process hearings on discipline-related matters and the outcomes of three hearings.

Turning to another important component of this bill, Mr. President, I'd like to talk for a few minutes about agriculture. Since early summer, I have been working, along with a number of my colleagues, to inform this body about the very serious economic crisis gripping our nation's agriculture sector and to develop an emergency assistance package. Farm families and rural communities are not currently sharing in the prosperity of our broader economy. With farm income down over 20 percent from just two years ago, our farm economy is suffering its worst downturn in over a decade.

There are ominous signs that unless we turn this situation around, we are on the path to a full-blown agricultural depression on a scale of the 1980s farm crisis. My State of Iowa simply cannot stand to go down that road again, nor can our nation.

So I am pleased that through our concerted efforts, this bill includes a substantial package of emergency assistance for America's farmers. President Clinton vetoed the first Agriculture appropriations bill. He was right to do so. It was woefully inadequate. So we brought it back. And that veto by the President set the stage for the extensive improvements that we now have in this bill.

This bill increases funding by about 85 percent above the amount that was in the vetoed bill for assistance to replace income lost because of low commodity prices—an 85-percent increase over the bill that was vetoed. This is a victory but a partial victory. While this bill will provide a good deal of assistance in the form of a one-time payment, it falls far short of what is needed for the future.

This bill really has been a ''missed opportunity'' in which we could have put underneath the so-called Freedom to Farm bill a farm income safety net, but did not. When the so-called Freedom to Farm bill was passed in 1996, commodity prices were high and the safety net was thrown out the window. But prices go down as well as go up.

Since 1996 farm commodity prices have plummeted across our country. Now it is clear that the 1996 farm bill has failed, and has failed drastically, in protecting against disastrous losses in farm income. The bill that is before us just plows more money right into the Freedom to Farm payment system, which has already proven itself incapable of responding to low commodity prices.

We proposed a better way. We proposed to focus assistance more carefully on farmers who really need it because of low prices. We proposed to direct the benefits towards actual farmers instead of toward landlords. We proposed to restore a farm income safety net responsive to commodity prices. And we proposed to link assistance to actual production to avoid windfalls for those choosing not to plant the supported crop. Lastly, we supported a measure of fiscal responsibility so that rising commodity prices would limit USDA farm program spending.

Despite all of these advantages, the Republican majority rejected any alternative to the Freedom to Farm payment scheme. So what is going to happen is farmers will get a payment this fall. Even farmers who chose not to plant a crop will get a payment for it. They will get a payment having no relationship to the market price—just a flat payment across the board—fairly generous for those commodities with relatively better prices, much too little for commodities suffering the worst price losses. Also, a good number of farmers who will not be farming next year will get payments this fall, and somehow that will all have to be sorted out.

With fixed cash payments, landlords are in a great position to put the pressure on and claim a lot of that money in the form of rent for next year. Again, farmers fortunate enough to produce a good crop and whose commodities already have high prices and who are not suffering will still get a payment. This scheme makes no sense whatsoever. And yet it is strictly the triumph of ideology over practicality. The Republican ideology is not to have any farm income safety net and if there is a crisis to throw money at it.

So what we have done for the farm crisis is we have just thrown a lot of money at it. Well, that will help for this year, but it still won't be as good as what we proposed. Equally important, this bill does nothing toward restoring a farm income safety net for the longer term. What we proposed would have provided more income support for farmers and done so in a way that helps farmers deal with the practical reality of commodity markets. But, no, the Republican majority's ideology said we are going to stick with Freedom to Farm no matter what. And yet we know that a majority of farmers, a majority, a huge majority of the farmers wanted to take the caps off of marketing loan rates and they wanted to have some storage payments. Why?

So they could take the bumper crop we are having this year, store it, wait for the grain prices to go up and market it later on.

Well, this bill gives them nothing in this regard. Oh, they will get a payment this fall. But it will not be as much income protection as what we would have provided by taking the caps off of the marketing loan rates. Will it help? Sure, it will help. But it is a wasteful and fundamentally unsound way of helping our farmers.

Well, as I said, Republicans just decided to throw money at the problem—a triumph of ideology over practicality.

One last point. One of my biggest concerns about this bill is the $9 billion add-on to the Pentagon budget—$9 billion thrown in at the last minute. Despite the rhetoric from the Republican side, precious little of this fiscally irresponsible add-on is targeted at troop readiness and other emergencies in the military.

Congressional leadership talks a lot about shortages of spare parts and about troop pay problems. So where are the proposals to fix the Pentagon's antiquated supply system? Where are the proposals to increase pay for the troops? Not in this bill. But there is $1 billion for star wars. There are billions more in pork barrel projects not requested by the Pentagon. And at the same time that this bill piles on the Pentagon pork, it is shortchanging reform. The General Accounting Office and the Pentagon's own inspector general constantly report rampant waste and mismanagement in the military's purchasing and supply system, yet this bill lets the waste and mismangement continue unchecked, and throws in a few more gold-plated weapons systems to boot.

What a boondoggle. What a boondoggle. We talk about troop readiness, so where does this bill put the money? It puts it into star wars. It puts it into pork projects that the Pentagon doesn't want, some more gold-plated weapons systems, but precious little in fact, for troop readiness.

I have mixed feelings about this 40-pound, 4,000-page whopper that we have before us. It has some important provisions that we worked together on in a bipartisan fashion—to improve medical research, for example, and to improve education. A number of the components of this bill truly will improve the lives of hard-working American families, but the bill also has a number of awful provisions, add-ons, fiscally irresponsible giveaways.

In the end, I will vote for it because I believe the good does outweigh the bad, but I want to be clear that if this bill were in the many separate pieces of legislation as it should have been, a lot of them I would have voted against, and I don't think a lot of them would ever have gotten through this body.

As I have said earlier, and as many of my colleagues have said, this process which we just went through is bad for Americans. This is no way to do the Nation's business. The Republican leadership, as I said earlier, has treated our taxpayer dollars cavalierly. This is no way to flagrantly throw around the hard-earned tax dollars of the taxpayers of this country, to throw it away on boondoggles, to throw it away on items that were never debated or saw the light of day in the Senate or the House.

I can only hope that the next Congress will not go through this exercise again. I hope the leadership of the next Congress will get the appropriations bills through on time, will debate these matters openly so that we can have the opportunity to discuss them openly, so we will know what is in the bills before we vote on them. I think Senator ROBERT BYRD of West Virginia said it best—as I read in the newspaper. He said, ''Only God knows what's in this bill.''

Well, I don't know, Mr. President, I don't know if we will ever know what all is in this bill, but I am certain, certain as I am standing here, we are going to see inquiring reporters, investigative journalists who will begin looking at this bill. They will begin looking at all of those hidden items, and I bet you piece by piece, bit by bit, it is going to come out, maybe next month, maybe in January, maybe in March, all of the little hidden things that were in there. And I say, shame on this Congress, shame on the leadership for treating the American taxpayers this way. We have got to do better in the way we do the Nation's business.

Mr. President, I yield the floor.

OPPOSITION TO DELETION OF THE AGJOBS AMENDMENT

Mr. SMITH of Oregon. Mr. President, as we take up the Omnibus appropriations bill, I would like to take this opportunity to express my extreme disappointment that the Agricultural Job Opportunity Benefits and Security Act amendment, known as AgJOBS, was eliminated from the Omnibus bill.

The bipartisan AgJOBS amendment received a veto proof majority vote of 68–31 when it was added to the Commerce, Justice, State Appropriations bill earlier this year. We had a golden opportunity to reform the current bureaucratic H–2A immigrant visa program that has made fugitives out of farmworkers and felons out of farmers. The amendment would have created a workable system for recruiting farm workers domestically and preventing our American crops from rotting in the fields.

Unfortuantely, the Clinton Administration was content with the status quo and threatened to veto the Omnibus bill if the balanced AgJOBS amendment was included.

Mr. President, I find the Administration's veto threat quite troubling since the Omnibus appropriations bill contains a multi-billion dollar disaster relief package for traditional program-crop agriculture to help deal with losses sustained as a result of the world financial crisis.

The disaster relief goes to producers who already have a long history of reliance on federal assistance, yet the farm disaster bill does nothing to help producers of labor intensive commodities—fruits, vegetables, and horticultural specialties—who are not supported by the government and who are facing a crisis of nationwide labor shortages created by our own government. This crisis has been exacerbated by our current unworkable legal foreign worker program.

A farmworker shortage ultimately affects America's ability to compete in the world agriculture market. According to the United States Department of Agriculture data, about three off-farm jobs are sustained by each on-farm production job. Therefore, nearly three times as many U.S. workers will lose their U.S. jobs as the number of foreign farmworkers kept out of the United States increases.

Mr. President, I also cannot understand the inconsistency of the Administration enacting the H–1B high-tech worker bill and not enacting H–2A reform as embodied in our AgJOBS bill.

Our AgJOBS bill contains worker benefits far in excess of those provided by the H–1B high-tech worker bill. Our bill guarantees above-prevailing wages for lower wage occupations, free housing to both U.S. and foreign workers recruited from outside the local area, reimbursement of inbound and return transportation costs to both U.S. and foreign workers recruited from outside the local area, and penalties that include lifetime program debarment for violations. The H–1B requires only the prevailing wage without any housing or transportation benefits and provides a maximum penalty of a 3-year debarment.

Mr. President, we cannot continue to allow our farmers and farmworkers to be trapped in a system that rewards illegal labor practices and punishes the most vulnerable.

As we address reform of the H–2A immigrant visa program early next year, I hope my colleagues will work with me to finally safeguard basic human rights, provide a reliable documented work force for farmers, and reward legal conduct to both farmers and farmworkers.

QUINCY LIBRARY GROUP LEGISLATION

Mrs. FEINSTEIN. Mr. President, I am very pleased that the Quincy Library Group bill has been included in the omnibus appropriations bill. This legislation embodies the consensus proposal of the Quincy Library Group, a coalition of environmentalists, timber industry representatives, and local elected officials in Northern California, who came together to resolve their long-standing conflicts over timber management on the national forest lands in their area.

The Quincy Library Group legislation is a real victory for local consensus decision making. It proves that even some of the most intractable environmental issues can be resolved if

people work together toward a common goal.

I first met the Quincy Library Group back in 1992 when I was running for the Senate, and was then very impressed with what they were trying to do.

The members of the Quincy Library Group had seen first hand the conflict between timber harvesting and jobs, environmental laws and protection of their communities and forests, and the devastation of massive forest fires. Their overriding concern was that a catastrophic fire could destroy both the natural environment and the potential for jobs and economic stability in their community. They were also concerned the ongoing stalemate over forest management was ultimately harming both the environment and their local economy.

The group got together and talked things out. They decided to meet in a quiet, non-confrontational environment—the main room of the Quincy Public Library. They began their dialogue in the recognition that they shared the common goal of fostering forest health, keeping ecological integrity, assuring an adequate timber supply for area mills, and providing economic stability for their community.

One of the best articles I have read about the Quincy Library Group process recently appeared in the Washington Post. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, after dozens of meetings and a year and a half of negotiation, the Quincy Library Group developed an alternative management plan for the Lassen National Forest, Plumas National Forest, and the Sierraville Ranger District of the Tahoe National Forest.

In the last 5 years, the group has tried to persuade the U.S. Forest Service to administratively implement the plan they developed. While the Forest Service was interested in the plan developed, they were unwilling to fully implement it. Negotiations and discussions began in Congress. This legislation is the result.

THE QUINCY LIBRARY GROUP LEGISLATION

Specifically, the legislation directs the Secretary of Agriculture to implement the Quincy Library Group's forest management proposal on designated lands in the Plumas, Lassen and Tahoe National Forests for five years as a demonstration of community-based consensus forest management. I would like to thank Senators MURKOWSKI, BUMPERS, and CRAIG, Representatives HERGER and MILLER, as well as the Clinton Administration, for the thoughts they contributed to the development of the final bill.

The legislation establishes significant new environmental protections in the Quincy Library Group project area. It protects hundreds of thousands of acres of environmentally sensitive lands, including all California spotted owl habitat, as well as roadless areas. Placing these areas off limits to logging and road construction protects many areas that currently are not protected, including areas identified as old-growth and sensitive watersheds in the Sierra Nevada Ecosystem Project report.

However, in the event that any sensitive old growth is not already included in the legislation's off base areas, the Senate Energy and Natural Resources Committee provided report language when the legislation was reported last year, as I requested, directing the Forest Service to avoid conducting timber harvest activities or road construction in these late successful old-growth areas. The legislation also requires a program of riparian management, including wide protection zones and streamside restoration projects.

The bottom line is that the Quincy Library Group legislation will provide strong protections for the environment while preserving the job base in the Northern Sierra—not just in one single company, but across 35 area businesses, many of them small and family-owned.

The Quincy Library Group legislation is strongly supported by local environmentalists, labor unions, elected officials, the timber industry, and 27 California counties. The House approved the Quincy Library Group legislation by a vote of 429 to one last year. The Senate Energy Committee reported the legislation last October. The legislation has been the subject of Congressional hearings and the focus of nationwide public discussion.

I thank my colleagues for ensuring that this worthy pilot project has a chance.

EXHIBIT NO. 1

[From the Washington Post, Oct. 11, 1998]

GRASS-ROOTS SEEDS OF COMPROMISE

(By Charles C. Mann and Mark L. Plummer)

Every month since 1993, about 30 environmentalists, loggers, biologists, union representatives and local government officials have met the library of Quincy—a timber town in northern California that has been the site of a nasty 15-year battle over logging.

Out of these monthly meetings has emerged a plan to manage 2.4 million acres of the surrounding national forests. Instead of leaving the forests' ecological fate solely to Washington-based agencies and national interest groups, the once-bitter adversaries have tried to forge a compromise solution on the ground—a green version of Jeffersonian democracy. When the House of Representatives, notorious for its discord on environmental legislation, approved the plan 429–1 in July 1997, the Quincy Library Group became the symbol for a promising new means of resolving America's intractable environmental disputes.

The Quincy Library Group is one of scores of citizens' associations that in the past decade have brought together people who previously met only in court. Sometimes called ''community-based conservation'' groups, they include the Friends of the Cheat River, a West Virginia coalition working to restore a waterway damaged by mining runoff; the Applegate Partnership, which hopes to restore a watershed in southwestern Oregon while keeping timber jobs alive, and Envision Utah, which tries to foster consensus about how to manage growth in and around Salt Lake City.

Like many similar organizations, the Quincy Library Group was born of frustration. In the 1980s, Quincy-based environmental advocates, led by local attorney Michael B. Jackson, attempted with varying success to block more than a dozen U.S. Forest Service timber sales in the surrounding Plumas, Lassen and Tahoe national forests. The constant battles tied the federal agency in knots and almost shut down Sierra Pacific Industries, the biggest timber company there, imperiling many jobs. The atmosphere was ''openly hostile, with agitators on both sides,'' says Linda Blum, a local activist who joined forces with Jackson in 1990 and aroused so much opprobrium that Quincy radio hosts denounced her on the air for taking food from the mouths of the town's children.

Worn down and dismayed by the hostility in his community, Jackson was ready to try something different. He got a chance to do so late in 1992, when Bill Coates, a Plumas County supervisor, invited the factions to talk to each other, face to face. Coates suggested that the group work from forest-management plans proposed by several local environmental organizations in the mid-1980s. By early 1993, they were meeting at the library and soon put together a new proposal. (The Forest Service eventually had to drop out because the Federal Advisory Committee Act, which places cumbersome requirements on groups who meet with federal agencies.) Under this proposal, timber companies could continue thinning and selectively logging in up to 70,000 acres per year, about the same area being logged in 1993 but drastically lower than the 1990 level. Riverbanks and roadless areas, almost half the area covered by the plan, would be off-limits.

The Quincy group asked the Forest Service to incorporate its proposal into the official plans for the three national forests, but never got a definite answer. Convinced that the agency was too dysfunctional to respond, in 1996 the group took its plan to their congressman, Wally Herger, a conservative Republican. Herger introduced the Quincy proposal in the House, hoping to instruct the agency to heed the wishes of local communities. It passed overwhelmingly—perhaps the only time that Reps. Helen Chenoweth (R-Idaho), a vehement property-rights advocate, and George Miller (D-Calif.) one of the greenest legislators on Capitol Hill, have agreed on an environmental law. Then the bill went to the Senate—and slammed into resistance from big environmental lobbies.

From the start, the Quincy group had kept in touch with the Wilderness Society, the Natural Resources Defense Council and the Sierra Club. The three organizations offered comments, and the Quincy group incorporated some. Still, the national groups continued to balk, instead submitting detailed criteria necessary to ''merit'' their support. When the Quincy plan became proposed legislation, the national groups stepped up their attacks. The Quincy approach, said Sierra Club legal director Debbie Sease, had a ''basic underlying flaw'' using a cooperative, local decision-making process to manage national assets. Jay Watson, regional director of the Wilderness Society, said: ''Just because a group of local people can come to agreement doesn't mean that it is good public policy.'' And because such parochial efforts are inevitably ill-informed and always risk domination by rich, sophisticated industry representatives, the Audubon Society warned, they are ''not necessarily equipped

to view the bigger picture.'' Considering this bigger picture, it continued, ''is the job of Congress, and of watchdog groups like the National Audubon Society.''

Many local groups regard national organizations as more interested in protecting their turf than in achieving solutions that advance conservation. ''It's interesting to me that it has to be top-down,'' said Jack Shipley, a member of the Applegate Partnership. ''It's a power issue, a control issue.'' The big groups' insistence on veto power over local decision-making ''sounds like the old rhetoric—either their way or no way,'' Shipley says. ''No way'' may be the fate of the Quincy bill. Pressured by environmental lobbies, Sen. Barbara Boxer (D-Calif.) placed a hold on it in the Senate.

Despite the group's setback, community-based conservation efforts like Quincy provide a glimpse of the future. Under the traditional approach to environmental management, decisions have been delegated to impartial bureaucracies—the Forest Service, for example, for national forests. Based on the scientific evaluations of ecologists and economists, the agencies then formulate the ''right'' policies, preventing what James Madison called ''the mischief of faction.''

But today, according to Mark Sagoff of the University of Maryland Institute for Philosophy and Public Policy, it is the bureaucrats who are beset by factions; big business and environmental lobbies. For these special-interest groups, he argues, ''deliberating with others to resolve problems undermines the group's mission, which is to press its purpose or concern as far as it can in a zero-sum game with its political adversaries.'' The system ''benefits the lawyers, lobbyists and expert witnesses who serve in various causes as mercenaries,'' he says, ''but it produces no policy worth a damn.''

In contrast, community-based conservation depends on all sides acknowledging the legitimacy of each other's values. Participants are not guaranteed to get exactly what they want; no one has the power to stand by and judge the ''merit'' of the results. Although ecology and economics play central roles, ecologists and economists have no special place. Like everyone else, they must sit at the table as citizens, striving to make their community and its environment a better place to live.

In short, Quincy's efforts and those like it represent a new type of environmentalism: republican environmentalism, with a small ''r.'' This new approach cannot address global problems like climate change. Nor should it be routinely accepted if a local group decides on irrevocable changes in areas of paramount national interest—filling in the Grand Canyon, say. But even if some small town would be foolish enough to decide to do something destructive, there's a whole framework of national environment laws that would prevent it from happening. And, despite the resistance of the national organizations, the environmental movement should not reject this new approach out of hand. Efforts to protect the environment over the past 25 years have produced substantial gains, but have lately degenerated into a morass of litigation and lobbying. Community-based conservation has the potential to change things on the ground, where it matters most.

Mr. CRAIG. It is agreed that certain language added to the Quincy Library Group Forest Recovery and Economic Stability Act after the bill was proposed by Congressman WALLY HERGER related to grazing within the pilot project areas may have introduced ambiguities that could lead to adverse effects. Is there any intent for the Quincy Library Group legislation to negatively impact grazing in general?

Mrs. FEINSTEIN. No, neither the authors of the bill, nor the Quincy Library Group ever intended to negatively impact grazing generally.

Mr. CRAIG. What does ''specific location'' as referred to in subsection (c)(2)(C) of the legislation mean? Can the riparian management or SAT guidelines referred to by this legislation be applied to the entire pilot project area?

Mrs. FEINSTEIN. The only location where these guidelines would apply to grazing is where cattle are actually in the work area and at the same time a QLG activity is taking place. The QLG resource management activities include building defensible profile zones, single or group tree selection thinning, and riparian management projects.

Mr. CRAIG. Will the SAT riparian management guidelines referred to in this measure apply to riparian management projects outside of the pilot project area or to grazing activities within the pilot project area where no riparian management activities are taking place?

Mrs. FEINSTEIN. Under the terms of this bill the SAT guidelines affecting grazing will apply only to the specific work area location and only at the specific time that projects are conducted within the pilot project area. The applicability of these guidelines outside of the pilot project area is not addressed by this legislation.

CHILDREN'S ONLINE PRIVACY

Mr. BRYAN. Mr. President, the Children's Online Privacy Act was reported out of Committee by voice vote. Because of time constraints at the end of the session, we have been unable to file a Committee Report before offering it as an amendment on the Senate floor. Accordingly, I wish to take this opportunity to explain the purpose and some of the important features of the amendment.

In a matter of only a few months since Chairman MCCAIN and I introduced this bill last summer, we have been able to achieve a remarkable consensus. This is due in large part to the recognition by a wide range of constituencies that the issue is an important one that requires prompt attention by Congress. It is also due to revisions to our original bill that were worked out carefully with the participation of the marketing and online industries, the Federal Trade Commission, privacy groups, and First Amendment organizations.

The goals of this legislation are: (1) to enhance parental involvement in a child's online activities in order to protect the privacy of children in the online environment; (2) to enhance parental involvement to help protect the safety of children in online fora such as chatrooms, home pages, and pen-pal services in which children may make public postings of identifying information; (3) to maintain the security of personally identifiable information of children collected online; and (4) to protect children's privacy by limiting the collection of personal information from children without parental consent. The legislation accomplishes these goals in a manner that preserves the interactivity of children's experience on the Internet and preserves children's access to information in this rich and valuable medium.

I ask unanimous consent that a summary of the bill's provisions be printed in the RECORD.

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

Sec. 1301. Short Title

This Act may be cited as the ''Children's Online Privacy Protection Act of 1998.''

Sec. 1302. Definitions

(1) *Child:* The amendment applies to information collected from children under the age of 13.

(2) *Operator:* The amendment applies to ''operators.'' This term is defined as the person or entity who both operates an Internet website or online service and collects information on that site either directly or through a subcontractor. This definition is intended to hold responsible the entity that collects the information, as well as the entity on whose behalf the information is collected. This definition, however, would not apply to an online service to the extent that it does not collect or use the information.

The amendment exempts nonprofit entities that would not be subject to the FTC Act. The exception for a non-profit entity set forth in Section 202(2)(B) applies only to a true not-for-profit and would not apply to an entity that operates for its own profit or that operates in substantial part to provide profits to or enhance the profitability of its members.

(7) *Parent:* The term ''parent'' includes ''legal guardian.''

(8) *Personal Information:* This is an online children's privacy bill, and its reach is limited to information collected online from a child.

The amendment applies to individually identifying information collected online from a child. The definition covers the online collection of a first and last name, address including both street and city/town (unless the street address alone is provided in a forum, such as a city-specific site, from which the city or town is obvious), e-mail address or other online contact information, phone number, Social Security number, and other information that the website collects online from a child and combines with one of these identifiers that the website has also collected online. Thus, for example, the information ''Andy from Las Vegas'' would not fall within the amendment's definition of personal information. In addition, the amendment authorizes the FTC to determine through rulemaking whether this definition should include any other identifier that permits the physical or online contacting of a specific individual.

It is my understanding that ''contact'' of an individual online is not limited to e-mail, but also includes any other attempts to communicate directly with a specific, identifiable individual. Anonymous, aggregate information—information that cannot be linked by the operator to a specific individual—is not covered by this definition.

(9) *Verifiable Parental Consent:* The amendment establishes a general rule that ''verifiable parental consent'' is required before a

web site or online service may collect information online from children, or use or disclose information that it has collected online from children. The amendment makes clear that parental consent need not be obtained for each instance of information collection, but may, with proper notice, be obtained by the operator for future information collection, use and disclosure. Where parental consent is required under the amendment, it means any reasonable effort, taking into consideration available technology, to provide the parent of a child with notice of the website's information practices and to ensure that the parent authorizes collection, use and disclosure, as applicable, of the personal information collected from that child.

The FTC will specify through rulemaking what is required for the notice and consent to be considered adequate in light of available technology. The term should be interpreted flexibly, encompassing ''reasonable effort'' and ''taking into consideration available technology.'' Obtaining written parental consent is only one type of reasonable effort authorized by this legislation. ''Available technology'' can encompass other online and electronic methods of obtaining parental consent. Reasonable efforts other than obtaining written parental consent can satisfy the standard. For example, digital signatures hold significant promise for securing consent in the future, as does the World Wide Web Consortium's Platform for Privacy Preferences. In addition, I understand that the FTC will consider how schools, libraries and other public institutions that provide Internet access to children may accomplish the goals of this Act.

As the term ''reasonable efforts'' indicates, this is not a strict liability standard and looks to the reasonableness of the efforts made by the operator to contact the parent.

(10) *Website Directed to Children:* This definition encompasses a site, or that portion of a site or service, which is targeted to children under age 13. The subject matter, visual content, age of models, language, or other characteristics of the site or service, as well as off-line advertising promoting the website, are all relevant to this determination. For example, an online general interest bookstore or compact disc store will not be considered to be directed to children, even though children visit the site. However, if the operator knows that a particular visitor from whom it is collecting information is a child, then it must comply with the provisions of this amendment. In addition, if that site has a special area for children, then that portion of the site will be considered to be directed to children.

The amendment provides that sites or services that are not otherwise directed to children should not be considered directed to children solely because they refer or link users to different sites that are directed to children. Thus a site that is directed to a general audience, but that includes hyperlinks to different sites that are directed to children, would not be included in this definition but the child oriented linked sites would be. By contrast, a site that is a child-oriented directory would be considered directed to children under this standard. However, it would be responsible for its own information practices, not those of the sites or services to which it offers hyperlinks or references.

(12) *Online Contact Information:* This term means an e-mail address and other substantially similar identifiers enabling direct online contact with a person.

Sec. 1303. Regulation of Unfair and Deceptive Acts and Practices

This subsection directs the FTC to promulgate regulations within one year of the date of enactment prohibiting website or online service operators or any person acting on their behalf from violating the prohibitions of subsection (b). The regulations shall apply to any operator of a website or online service that collects personal information from children and is directed to children, or to any operator where that operator has actual knowledge that it is collecting personal information from a child.

The regulations shall require that these operators adhere to the statutory requirements set forth in Section 203(b)(1):

1. *Notice.*—Operators must provide notice on their sites of what personal information they are collecting online from children, how they are using that information, and their disclosure practices with regard to that information. Such notice should be clear, prominent and understandable. However, providing notice on the site alone is not sufficient to comply with the other provisions of Section 202 that require the operator to make reasonable efforts to provide notice in obtaining verifiable parental consent, or the provisions of Section 203 that require reasonable efforts to give parents notice and an opportunity to refuse further use or maintenance of the personal information collected from their child. These provisions require that the operator make reasonable efforts to ensure that a parent receives notice, taking into consideration available technology.

2. *Prior Parental Consent.*—As a general rule, operators must obtain verifiable parental consent for the collection, use or disclosure of personal information collected online from a child.

3. *Disclosure and Opt Out for a Parent Who Has Provided Consent.*—Subsection 203(b)(1)(B) creates a mechanism for a parent, upon supplying proper identification, to obtain: (1) disclosure of the specific types of personal information collected from the child by the operator; and (2) disclosure through a ''means that is reasonable under the circumstances'' of the actual personal information the operator has collected from that child. It would be inappropriate for operators to be liable under another source of law for disclosures made in a good faith effort to fulfill the disclosure obligation under this subsection. Accordingly, subsection 203(a)(2) provides that operators are immune from liability under either federal or state law for any disclosure made in good faith and following procedures that are reasonable. If the FTC has not issued regulations, I expect that such procedures would be judged by a court based upon their reasonableness.

Subsection 203(b)(1)(B) also gives that parent the ability to opt out of the operator's further use or maintenance in retrievable form, or future online collection of information from that child. The opt out of future collection operates as a revocation of consent that the parent has previously given. It does not prohibit the child from seeking to provide information to the operator in the future, nor the operator from responding to such a request by seeking (and obtaining) parental consent. In addition, the opt out requirement relates only to the online site or sites for which the information was collected and maintained, and does not apply to different sites which the operator separately maintains.

Subsection 203(b)(3) provides that if a parent opts out of use or maintenance in retrievable form, or future online collection of personal information, the operator of the site or service in question may terminate the service provided to that child.

4. *Curbing Inducements to Disclose Personal Information.*—Subsection 203(b)(1)(C) prohibits operators from inducing a child to disclose more personal information than reasonably necessary in order to participate in a game, win a prize, or engage in another activity.

5. *Security Procedures.*—Subsection 203(b)(1)(D) requires that an operator establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected online from children by that operator.

Exceptions to Parental Consent: Subsection 203(b)(2) is intended to ensure that children can obtain information they specifically request on the Internet but only if the operator follows certain specified steps to protect the child's privacy. This subsection permits an operator to collect online contact information from a child without prior parental consent in the following circumstances: (A) collecting a child's online contact information to respond on a one-time basis to a specific request of the child; (B) collecting a parent's or child's name and online contact information to seek parental consent or to provide parental notice; (C) collecting online contact information to respond directly more than once to a specific request of the child (e.g., subscription to an online magazine), when such information is not used to contact the child beyond the scope of that request; (D) the name and online contact information of the child to the extent reasonably necessary to protect the safety of a child participant in the site; and (E) collection, use, or dissemination of such information as necessary to protect the security or integrity of the site or service, to take precautions against liability, to respond to judicial process, or, to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation related to public safety.

For each of these exceptions the amendment provides additional protections to ensure the privacy of the child. For a one-time contact, the online contact information collected may be used only to respond to the child and then must not be maintained in retrievable form. In cases where the site has collected the parents' online contact information in order to obtain parental consent, it must not maintain that information in retrievable form if the parent does not respond in a reasonable period of time. Finally, if the child's online contact information will be used, at the child's request, to contact the child more than once, the site must use reasonable means to notify parents and give them the opportunity to opt out.

In addition, subsection (C)(ii) also allows the FTC the flexibility to permit the site to recontact the child without notice to the parents, but only after the FTC takes into consideration the benefits to the child of access to online information and services and the risks to the security and privacy of the child associated with such access.

Paragraph (D) clarifies that websites and online services offering interactive services directed to children, such as monitored chatrooms and bulletin boards, that require registration but do not allow the child to post personally identifiable information, may request and retain the names and online contact information of children participating in such activities to the extent necessary to protect the safety of the child. However, the company may not use such information except in circumstances where the company believes that the safety of a child participating on that site is threatened, and the company must provide direct parental notification with the opportunity for the parent to opt out of retention of the information. For example, there have been instances in which children have threatened suicide or discussed family abuse in such fora. Under these circumstances, an operator may use the name and online contact information of the child in order to be able to get help for the child.

Throughout this section, the amendment uses the term ''not maintained in retrievable form.'' It is my intent in using this language that information that is ''not maintained in retrievable form'' be deleted from the operator's database. This language simply recognizes the technical reality that some information that is ''deleted'' from a database may linger there in non-retrievable form.

Enforcement.—Subsection 203(c) provides that violations of the FTC's regulations issued under this amendment shall be treated as unfair or deceptive trade practices under the FTC Act. As discussed below, State Attorneys General may enforce violations of the FTC's rules. Under subsection 203(d), state and local governments may not, however, impose liability for activities or actions covered by the amendment if such requirements would be inconsistent with the requirements under this amendment or Commission regulations implementing this amendment.

Sec. 1304. Safe harbors

This section requires the FTC to provide incentives for industry self-regulation to implement the requirements of Section 203(b). Among these incentives is a safe harbor through which operators may satisfy the requirements of Section 203 by complying with self-regulatory guidelines that are approved by the Commission under this section.

This section requires the Commission to make a determination as to whether self-regulatory guidelines submitted to it for approval meet the requirements of Commission regulations issued under Section 203. The Commission will issue, through rulemaking, regulations setting forth procedures for the submission of self-regulatory guidelines for Commission approval. The regulations will require that such guidelines provide the privacy protections set forth in Section 203. The Commission will assess all elements of proposed self-regulatory guidelines, including enforcement mechanisms, in light of the circumstances attendant to the industry or sector that the guidelines are intended to govern.

The amendment provides that, once guidelines are approved by the Commission, compliance with such guidelines shall be deemed compliance with Section 203 and the regulations issued thereunder.

The amendment requires the Commission to act upon requests for approval of guidelines for safe harbor treatment within 180 days of the filing of such requests, including a period for public notice and comment, and to set forth its conclusions in writing. If the Commission denies a request for safe harbor treatment or fails to act on a request within 180 days, the amendment provides that the party that sought Commission approval may appeal to a United States district court as provided for in the Administrative Procedure Act, 5 U.S.C. §706.

Sec. 1305. Actions by States.

State Attorneys General may file suit on behalf of the citizens of their state in any U.S. district court of jurisdiction with regard to a practice that violates the FTC's regulations regarding online children's privacy practices. Relief may include enjoining the practice, enforcing compliance, obtaining compensation on behalf of residents of the state, and other relief that the court considers appropriate.

Before filing such an action, an attorney general must provide the FTC with written notice of the action and a copy of the complaint. However, if the attorney general determines that prior notice is not feasible, it shall provide notice and a copy of the complaint simultaneous to filing the action. In these actions, state attorneys general may exercise their power under state law to conduct investigations, take evidence, and compel the production of evidence or the appearance of witnesses.

After receiving notice, the FTC may intervene in the action, in which case it has the right to be heard and to file an appeal. Industry associations whose guidelines are relied upon as a defense by any defendant to the action may file as amicus curiae in proceedings under this section.

If the FTC has filed a pending action for violation of a regulation prescribed under Section 3, no state attorney general may file an action.

Sec. 1306. Administration and applicability

FTC Enforcement: Except as otherwise provided in the amendment, the FTC shall conduct enforcement proceedings. The FTC shall have the same jurisdiction and enforcement authority with respect to its rules under this amendment as in the case of a violation of the Federal Trade Commission Act, and the amendment shall not be construed to limit the authority of the Commission under any other provisions of law.

Enforcement by Other Agencies: In the case of certain categories of banks, enforcement shall be carried out by the Office of the Comptroller of the Currency; the Federal Reserve Board; the Board of Directors of the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Farm Credit Administration. The Secretary of Transportation shall have enforcement authority with regard to any domestic or foreign air carrier, and the Secretary of Agriculture where certain aspects of the Packers and Stockyards Act apply.

Sec. 1307. Review.

Within 5 years of the effective date for this amendment, the Commission shall conduct a review of the implementation of this amendment, and shall report to Congress.

Sec. 1308. Effective date

The enforcement provisions of this amendment shall take effect 18 months after the date of enactment, or the date on which the FTC rules on the first safe harbor application under section 204 if the FTC does not rule on the first such application filed within one year after the date of enactment, whichever is later. However, in no case shall the effective date be later than 30 months after the date of enactment of this Act.

SECTION 110

Mr. D'AMATO. Mr. President, I am pleased that this Omnibus Appropriations Bill will include a delay of the implementation of Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The 1996 immigration law mandated the implementation of an exit-entry system at all U.S. borders by September 30, 1998. If implemented, the impact of this provision would be devastating, causing insufferable delays at the U.S.-Canadian border, particularly in my own state of New York. Trade, tourism and international relations would all suffer.

Last year, I joined with Senator SPENCER ABRAHAM and other colleagues to introduce the Border Improvement and Immigration Act of 1997 (S. 1360) which would maintain current cross-border traffic along the northern border and I testified at a Senate Subcommittee hearing on the repercussions of implementing Section 110 on New York. On April 23, 1998, the Senate Judiciary Committee considered and marked up the bill. The bill approved by the Committee allows land border and seaports to be exempt from the new system. The full Senate passed S. 1360 in July 1998 and also voted in support of a full repeal of Section 110.

However, as the date of implementation grew closer, Congress enacted a two and a half year delay, which is included in the Omnibus Consolidated and Emergency Supplemental Appropriation Act for Fiscal Year 1999. While we have some ''breathing room'', rest assured that I will continue to press for a full repeal of Section 110. I thank my colleagues for working with Senator ABRAHAM and I on this important provision.

Mrs. BOXER. Mr. President, I have decided to vote for the omnibus appropriations bill because it contains many things which are very beneficial to the people and the economy of my state of California, and it includes two of my top priorities—afterschool programs and the Salton Sea Restoration Act.

I want to make it clear, however, that the process that brought us this bill is severely flawed. While the Senate Appropriations Committee, on which I sit, did its work and reported each appropriations bill to the full Senate, the leaders of this Congress failed to do the appropriations work. This omnibus bill is not the right way to legislate.

I also want to say that I strongly object to the environmental riders in the bill, including legislation that will double the timber cut in several national forests in California. I realize that some of the riders were dropped from the final legislation and others were negotiated to have less impact, but the presence of any riders that harm our environment is unacceptable to me.

First, let me say what I like about the omnibus legislation:

EDUCATION

The most significant achievement of the bill is its emphasis on funding for public education, including:

$129 million to recruit, hire and train 3,500 teachers for California schools in order to reduce class size in the primary grades.

$20 million to expand afterschool programs for 25,000 children in California. This is a $16 million increase for California. I am particularly gratified by the outcome here because I believe it reflects my bill, the ''Afterschool Education and Safety Act'', and the amendment I successfully attached to the Senate Budget Resolution calling for more afterschool funding.

$77 million, a $12 million increase, for technology in schools programs, to help train teachers, and ensure computer literacy and access to Internet for California students.

$875 million to California schools, a $35 million increase over last year, for disadvantaged students under the Title I program. Senator FEINSTEIN and I worked very hard for this increase.

$550 million for California Head Start programs, to serve 3,280 more California children than last year for a total of more than 80,000.

$58 million, an increase of $3.6 million, through the Goals 2000 program to promote higher academic standards, increase student achievement, and help 12000 California schools implement school reforms.

$26 million for California through the ''America Reads'' program, to help children in grades K–3 improving reading skills—all new funds.

The largest Pell Grant ever to California: $920 million, an increase of $43 million over last year, to increase the maximum grant to college students to $3,125, 36% higher than maximum award last year.

HEALTH

The bill provides funding for several federal programs that are very important in my state, and the omnibus funding levels will result in great benefits to California:

$2.3 billion, a $300 million increase, for medical research grants to California universities and research institutions through the National Institutes of Health (est.)

$238 million , a $43 million increase, for the Ryan White Care Act for health care services to Californians with HIV and AIDS.

At least $13 million for HIV/AIDS prevention and treatment for minority communities.

An increase of between $11 and 21 million in funding for Housing Opportunities for Persons With Aids (HOPWA) who have limited financial resources.

In addition, the bill accelerates the implementation of the health insurance premium tax deduction for the self-employed. By 2003, the deduction will be 100 percent.

The omnibus legislation also requires federal health plans to provide coverage for contraceptive drugs and devices.

Finally, the bill increases funding for the Centers for Disease Control by $226 million over last year—even more than the president's request—and specifies funds for important priorities such as childhood immunization ($421 million), breast and cervical cancer screening ($159 million), and chronic and environmental disease ($294 million).

ECONOMY

The legislation extends provisions of current law that help California's economy, including:

The Research and Experimentation Tax Credit, which is of great importance to California's high tech and bio tech companies.

The Work Opportunity Tax Credit, which encourages businesses to hire disadvantaged workers.

The Trade Adjustment Assistance program, which helps workers and businesses adversely affected by free trade agreements.

The Generalized System of Preferences authority of the President, which allows him to extend duty-free treatment on imports from certain development countries.

There are a number of other funding provisions that are beneficial to my state's businesses and industries, and our economy, including:

$204 million for the Advanced Technology Program, an increase of $11 million over last year, to develop cutting edge technologies. California receives more than any other state.

$100 million for ''Next Generation Internet'', a federal program to connect universities to the Internet and to one another. Many California universities are part of this program: UCLA, Stanford, Berkeley, UC-Davis, UC-Irvine, UC-San Diego, Calif. Tech, and Cal State, and others.

A 3-year moratorium on new taxes on Internet activities.

Full funding for the international Monetary Fund.

About double the number of visas available to foreign high tech, high skilled workers under the H–1B program. The bill raises the annual cap from 65,000 to 115,000 for next 2 years.

An increase in the Federal Housing Administration's loan limit from $86,000 to $109,000, which will give more housing ownership opportunities to Californians.

$283 million nationally for 50,000 Welfare to Work Housing Vouchers for families trying to make transition to jobs. This new program will help them get housing closer to jobs.

AGRICULTURE

The bill includes a number of important funding and legislative provisions for California farm interests:

Extension of time for California citrus growers to conduct scientific review of whether Argentine citrus should be permitted into the U.S.

Continued affordability for California farmers for crop insurance.

$500,000 for pest control research that affects citrus fruit trees.

$90 million for the Market Access Program, which benefits California companies that sell product overseas.

In addition, the bill provides an increase of $75 million—to $633 million—for the Food Safety Initiative, to help implement improvements in surveillance of food borne illnesses, education about proper food handling, research, and inspection of imported and domestic foods.

ENVIRONMENT

The omnibus bill includes some good things for California, including:

Salton Sea legislation to require a Department of Interior study on options for restoring the Sea. The bill also provides $14.4 million to fund research and restoration activities.

$10,000 for an appraisal of the Bolsa Chica mesa.

$2 million for land acquisition in the Santa Monica Mountains National Recreation Area.

$273,000 for operations at the Manzanar National Historic Site

Continuation for the moratorium on new Outer Continental Shelf oil/mineral leases and drilling.

$1 million for land acquisition in the San Bernardino National Forest.

More generally, the bill provides a substantial increase for global climate change programs to more than $1 billion, a 25.6 percent increase over 1998. It also funds the President's Clean Water Action Plan at $1.7 billion—a 16.1 percent increase over 1998. This 5-year program helps communities and farmers clean up waterways which are currently deemed unswimmable and unfishable.

INFRASTRUCTURE

The bill provides a total of $293 million for California transportation projects, including $70 million for Los Angeles Metropolitan Transportation Authority Red Line, $40 million for the BART-to-San Francisco Airport line, and $17 million for the Santa Monica Bus Transitway for a dedicated highway express lane for buses.

Other major California projects that are funded include $50 million for Los Angeles River flood control, $52 million for Port of Los Angeles expansion, $6 million for Port of Long Beach expansion, and $1.5 million for Marina Del Rey dredging (Boxer request)

COMMUNITY DEVELOPMENT AND SERVICES

Allows LA City and County to use up to 25 percent of Los Angeles Community Development Block Grant for public services, such as job training, child care, crime and drug abuse prevention—federal cap normally is 15 percent. This gives LA more flexibility in deciding how to spend the CDBG funds.

Funds the Low Income Home Energy Assistance program at $1.1 billion nationally. Last year, the program benefited 300,000 low income families in California.

Summer Youth Employment program is funded at $871 million, same as last year, nationwide. Last year, California received $140.1 million, creating 70,510 jobs for economically disadvantaged youth.

CRIME

The omnibus appropriations bill funds the COPS program with an additional $1.4 billion nationwide. This will allow the hiring of an additional 1,700 new police in California. The bill also includes $2 million for the ''Tools for Tolerance'' program, a new grant under the Byrne Grant program for the Simon Wiesenthal Center in Los Angeles. This program helps police officers learn how they can reduce prejudice in their communities.

IMMIGRATION ASSISTANCE TO STATES

The legislation includes about $585 million to states as reimbursement for the cost of incarcerating illegal immigrants. California receives about half the national total. The bill also includes roughly $150 million to reduce backlog at INS in processing requests by legal immigrants to become U.S. citizens. Forty percent of the current backlog is in California.

These are all good provisions that will be of benefit to my state. However, I am very disappointed that the omnibus bill contains a number of harmful provisions, as well, including:

Legislation to allow doubling the cut of timber in 2½ national forests in California.

An 8-month delay of implementation of new oil valuation royalty rules, which deprives California schools of funds they are entitled to.

Zero funding for the U.N. Fund for Population Activities—international family planning assistance.

Continuation of the prohibition, except in cases of life endangerment, rape or incest, on the use of any federal funds for abortion services.

Continuaiton of the ban on federal employee health benefit plans for covering abortion services except in cases of life endangerment, rape or incest.

The bill provides about $8 million in ''emergency'' fiscal year 1999 spending for defense and national security. The Joint Chiefs of Staff have said there are billions in the defense budget for items not requested by them. I believe they are right and that some of the unrequested items could have been cut to offset needed additional defense funds included in the omnibus bill.

Mr. President, for the good that is in the bill, I will vote for it. However, it is my strong feeling that this ''omnibus, consolidated, emergency, supplemental'' bill is not a good way to put together the budget of the United States. Too many decisions—important decisions that affect millions of Americans—were left to the end of the year and made by just a handful of people, rather than being considered carefully and thoroughly over a period of months, in open committee and floor debates. I hope that this process will not be repeated in future years.

Overall, I remain strongly and deeply committed to a budget and legislative agenda that puts top priority on education for all American children, health research that will make life better for all Americans, technology development to keep America's economy the strongest in the world, and infrastructure that promotes safety, economic activity, and higher quality of life for all our people.

INTERNET MORATORIUM ACT

Mr. BREAUX. Mr. President, I am pleased that the Internet Moratorium Act is included in the 1998 omnibus appropriations bill. Present federal law neither authorizes, nor imposes, nor ratifies any excise, sales, or domain registration tax on Internet use for electronic interstate commerce, and only one fee for the Intellectual Infrastructure Fund. This temporary moratorium will prevent federal and state governments from implementing or enforcing taxes imposed on Internet commerce over the next three years. We would also like to clarify that this Congress has not ratified or authorized any federal taxes on Internet domain name registrations. The U.S. Federal Court has stated that Section 8003 ratifies what was previously declared to be an unconstitutional tax. However, it was never intended to ratify a tax on the Internet; it only speaks to a fee for the Intellectual Infrastructure Fund. Because the fee constitutes an unconstitutional tax, it was not ratified by section 8003. I am confident that this moratorium will enable Congress to develop a coherent national strategy of appropriate taxation of business transactions conducted over the Internet without hindering business opportunities and would also like to reiterate that this Congress has never ratified an unconstitutional tax on the Internet.

INCLUSION OF NORTH DAKOTA IN THE MIDWEST HIDTA

Mr. CONRAD. Mr. President, I rise today to thank the conferees who worked on the fiscal year 1999 omnibus appropriations bill for retention of my amendment calling for inclusion of North Dakota in the Midwest High Intensity Drug Trafficking Area, or HIDTA.

As North Dakota Attorney General Heidi Heitkamp and US Attorney John Schneider have pointed out, North Dakota—like other Midwestern states—has been inundated by a relentlessly rising tide of methamphetamine trafficking, production, and abuse. Unless action is taken swiftly, the Attorney General and US Attorney warn that North Dakota is at high risk to attract a meth manufacturing industry.

This is because my state's sparse population, great size, and abandoned buildings offer excellent locations for meth laboratories. Counter-drug operations in the southwestern US are also forcing this easily-relocated industry to find alternative production locations.

The numbers speak for themselves. There were no meth purchases by undercover agents in North Dakota in 1993. By 1997, there were 181 meth-related cases reported by state and federal law enforcement. In 1993, meth-related cases represented only 6 percent of the drug-related workload of the Office of the US Attorney. In five short years this number has skyrocketed to 75 percent. It is undeniable that increased production of meth in North Dakota along with associated trafficking has contributed to a spike of violent crime.

This unacceptable increase in meth-driven crime in North Dakota is placing a growing burden on North Dakota law enforcement, and represents a growing danger to the people of my state. It demands an immediate—and coordinated—federal response. Similar problems in the states of South Dakota, Iowa, Nebraska, Missouri, and Kansas were countered with the formation of the Midwest HIDTA.

North Dakota meets all the statutory criteria for inclusion in the Midwest HIDTA. In the words of Heitkamp and Schneider, joining the HIDTA will allow federal, state, and local law enforcement to ''work together to disrupt, dismantle, and destroy street and mid-level elements of methamphetamine organizations and/or groups operating in North Dakota, the Midwest, and Canada.''

During floor consideration of the Treasury-Postal appropriations bill, I was pleased to work on this matter with the distinguished leadership of the Treasury-Postal Appropriations Subcommittee, Senators CAMPBELL and KOHL. I greatly appreciate their good work in conference to retain my amendment. I am also pleased that the conference report includes additional funding for the new HIDTAs designated in this legislation, and I urge the Administration to consider favorably North Dakota's request for $1.97 million in fiscal year 1999 funding for integration of my state into the Midwest HIDTA.

Mr. President, passage of the omnibus bill is an important step in getting tough on methamphetamine in my state. It is simply imperative that there be coordinated federal, state, and local law enforcement response to North Dakota's drug crisis, and I again thank Senators CAMPBELL and KOHL for their assistance in making this a reality.

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. ROBB. Mr. President, I rise to bring to the Senate's attention to a matter of concern to the government of the District of Columbia and to commuters in the capital area.

Each workday, about one thousand people a day use an informal carpool system to get in and out of the nation's capital. These commuters gather in ''slug lines'' at unofficial pick up points to catch rides with others driving into the District. At the end of the day, these ''slugs'' catch rides home.

Nearly everyone benefits from this system. The drivers get to work more quickly because they get to use the carpool lane. The ''slugs'' get a free ride. Other drivers benefit from reduce traffic. And all of us benefit from less pollution due to increased carpooling.

Not everyone is happy with the slugs however. The District of Columbia police have raised concerns that drivers picking up slugs will slow traffic or create a safety hazard. As reported in recent articles in the Washington Post, city police officers have ticketed these drivers and considered forcing the commuters to find a new pick up point. Fortunately, District Police Chief Ramsey has decided against his approach. Instead, he will study the traffic situation along 14th Street to see how we can improve the flow of traffic.

I welcome this approach. We may be able to address the District's concerns about safety and traffic congestion while preserving the slug lines. I've asked the managers of the legislation to consider this problem during conference, and if possible, to include language directing the Department of the Interior and the District of Columbia Department of Public Works to study the feasibility of providing commuter pick-up lanes to serve commuters in the busy 14th Street Corridor south of Constitution Avenue. The Interior Department and the District would report to the Appropriations Committees of the Senate and House of Representatives on their joint recommendations

to address this matter. Even if conference report language could not be included, I believe the idea of the study, with recommendations would be helpful.

I would like to emphasize that many of these commuters are Federal employees, and so I think it's appropriate to get the federal government involved. I am certainly willing to work with the District Government to seek federal funds or easements to create commuter pick up lanes, and I hope the District will look closely at this option. I think it could be a triple play—a win with respect to the District's safety concerns, a win for drivers on our congested highways, and of course, a win for the slugs.

Mr. President, I would appreciate hearing the comments of the joint managers on this issue, and I yield the floor.

Mr. FAIRCLOTH. I think the Senator has a workable plan to move this toward a solution, and I urge the Department of the Interior and the District Government to study the matter and report back to us early next year.

Mrs. BOXER. I thank the Senator from Virginia for raising this issue. The commuter lane proposal sounds like an excellent compromise, and I hope Interior and the District will begin looking at this option immediately.

As the ranking Democrat of the D.C. I would like to thank Senator FAIRCLOTH for his efforts as Chairman of the D.C. Appropriations Subcommittee. He has worked hard to address the District's financial ills, and I am pleased that we have begun to make some progress for the District to resolve its serious financial problems.

In fact, the fiscal well being of the District has improved dramatically. The District ended fiscal year 1997 with a budget surplus of almost $186 million. The June, 1998 projections suggest that the District may have a surplus of $302 million for fiscal year 1998.

The fiscal year 1999 D.C. Appropriations includes $494.59 million in Federal Funds. This amount represents an increase of $8.39 million above the President's Budget request for the District of Columbia. It is $38.4 million below the FY 1998 level.

With regard to the District of Columbia Funds, the legislation largely reflects the consensus budget formulated by the Mayor, the City Council, and the Control Board.

It is important to note that because of abuses of taxpayer funds, there is no appropriation to the Advisory Neighborhood Commissions (ANCs) as provided for in the consensus budget. However, this deletion of funds does not preclude the District from including funds for the commissions in future budgets so long as there are sufficient safeguards to protect taxpayers' interests.

Mr. President, with respect to specific provisions of this bill, there are some good things, but there are also some bad provisions.

On the plus side, this bill includes a $25 million federal payment for management reform. Within these funds, special attention will be given to fire and emergency medical services, the reopening of the Chief Medical Officer's laboratory, and implementation of a high-speed city-owned fiber network for voice and data services.

The bill provides funds for the repair and maintenance of public safety facilities in the District. The Federal highway funds made available to the District include $98 million for local streets.

The bill includes a $25 million federal contribution to the Washington Metropolitan Area Transit Authority for improvements to the Metrorail station at the site of the proposed Washington Convention Center project.

I am pleased that the bill sets aside $5 million to address the chronic need for additional community-based housing facilities for seriously and chronically mentally ill individuals in the District.

The bill also provides an appropriation to the Children's National Medical Center for the Community Pediatric Health Initiative. This reestablishes an important public-private partnership to provide pediatric services to high risk children in medically under-served areas.

The bill requires the Control Board to report to Congress on the status of any agreements between the District and all non-profit organizations that provide medical and social services to the District's residents. This will ensure that the District re-evaluates the decisions to terminate support and where possible renew support for these critical programs, including those of Children's Hospital.

I am especially pleased that funding for homeless programs in the District will remain level for fiscal year 1999. In previous years, these programs were threatened with funding cuts and I am happy that these cuts are no longer being proposed.

Finally, I am pleased that this legislation does not divert any funds from the District of Columbia Public School system for private school vouchers as was included in the D.C. Appropriations bill passed by the House of Representatives.

Mr. President, unfortunately this legislation includes a number of objectionable provision which violate the principle of home rule and infringe on the rights of District residents.

Again this year, the bill includes a ban on the use of local funds for abortions, and a ban on the use of local funds to expand health care benefits to unmarried couples. I continue in my strong opposition to these provisions.

I also have serious concerns about the provision to cap the funds available to reimburse attorneys who represent children who obtain special education placements in hearing sunder the Individuals with Disabilities Education Act. This provision will seriously inhibit the ability of children with special needs to obtain their legal right to an education.

I am disappointed by the inclusion of a provision that prohibits the District from using funds to provide assistance to any civil action to require Congress to provide the District of Columbia with voting representation.

The bill also includes a repeal of a recently enacted residency requirement, a matter of some controversy.

I know that the Administration strongly objects to several provisions in the bill, including a ban on funds to organizations that participate in needle exchange programs.

All of these provisions are unnecessary and inappropriate intrusions into the District's own priorities and the rights of its citizens.

Overall, I support the proposed allocation of funds for the District of Columbia, but I am disappointed by the many inappropriate riders in this legislation. Without these provisions, this would have been a much better bill.

Again, I would like to recognize Chairman FAIRCLOTH, and to acknowledge the hard work of the staff for this bill: Mary Beth Nethercutt of the Majority Staff, Minority Deputy Staff Director, Terry Sauvain; Liz Blevins and Neyla Arnas of the Committee staff; and Danielle Drissel of my legislative staff.

I would especially like to express my appreciation to Senator BYRD, the Ranking Democrat of the Committee on Appropriations, for assigning his Deputy Staff Director, Terry Sauvain, to serve as Minority Clerk of the D.C. Appropriations Subcommittee. Terry is a long time appropriations staff member who is a consummate professional and a pleasure to work with, and I have really enjoyed and counted on his advice and council.

GLACIER BAY NATIONAL PARK AND PRESERVE COMMERCIAL FISHING

Mr. STEVENS. Mr. President, the omnibus package, H.R. 4328, includes a measure involving commercial fishing in Glacier Bay and Upper Dundas Bay within Glacier Bay National Park and Preserve. While working on this in the past weeks, a fisherman commented to my office that the choices presented are like choosing whether to cut off your finger, hand, or arm. In short, because the Department of the Interior has taken the position that commercial fishing in Glacier Bay and Dundas Bay should end, there simply has been no solution that Alaskans can fully support. In the omnibus bill we have chosen the lesser of evils.

Without Congressional action, the National Park Service would have gone forward with regulations to phase out fishing in the Bay over 15 years and eventually ban it altogether. The National Park Service would also have blocked Dungeness crab fishermen who fish in Upper Dundas Bay and the Beardslee Islands, the so-called wilderness waters, from continuing a fishery that has existed for nearly 20 years

with no evidence of environmental damage. Whether the Service would have ever agreed to a fair plan to compensate these crabbers is doubtful. Discussions have been ongoing for three years without the Park Service putting a compensation plan on the table.

Without Congressional action, the Service might have proceeded with plans to shut down the scallop fishery, stop flounder fishing, close out crabbing, and block fisheries outside Glacier Bay itself, again relying on what it believes are its inherent powers to stop commercial activities in parks, the spirit and letter of the Alaska National Lands Conservation Act to the contrary. In my opinion and the opinion of the State of Alaska, the Service has no such authority because regulation of fisheries is a state prerogative in Alaska as well as the rest of the nation. Furthermore, the Alaska Department of Law maintains that the submerged land within Glacier Bay and, as a result, the water column above it, both fall under the jurisdiction of the State of Alaska under the Submerged Lands Act and the Alaska Statehood Act.

When this issue was brought before this Congress, I supported Senator MURKOWSKI's amendment to the Interior Appropriations bill to block the Park Service's planned regulations to give us more time to work out a solution. I also cosponsored Senator MURKOWSKI's bill to resolve this problem once and for all. Unfortunately, because of Administration opposition, the bill did not pass Congress, leaving us with the provision for a moratorium on regulations in the Interior bill.

As we approached the end of the fiscal year, the Administration became more vocally opposed to allowing traditional fisheries in Glacier Bay to continue even though there is no scientific evidence that either the fisheries or other resources which depend on them are in trouble. For example, whale counts are actually up in Glacier Bay, an indication that there is an abundance of fish upon which to feed. Secretary Babbitt threatened to recommend a veto of the bill if the provision blocking the Park Service's fishing ban was included in the spending bills.

At the same time, the Congressional leadership stepped up efforts to develop an omnibus spending package the President would sign. As much as they supported the Delegation's efforts in Glacier Bay, the Congressional leadership were not willing to give the President any excuse to veto bills and shut down the government to divert attention from other matters. I was asked to try to work out a solution that the President would accept. We worked for nearly a week to develop a plan; and after consultation with fishermen, crabbers, and the other members of the Delegation, I reluctantly concluded that this proposal was better than taking no action at all.

The plan we developed allows the fishermen who have historically operated in Glacier Bay to continue to fish for the rest of their lives. We had sought the right to allow fishermen to pass on their permits to their children or assignees, but that was rejected by the Interior Department. Had the regulations gone forward in their current form, all fishermen would have been banned from the Bay in 15 years.

The proposal also offers a compensation package to the five or six crabbers who will be forced out of designated wilderness areas in Glacier Bay and Upper Dundas Bay. It will compensate them for their permit and lost income for six years or $400,000, which ever is greater. In addition, if a fisherman chooses to be compensated for his or her permit and lost income, he or she may also sell to the Secretary his or her boat and gear for additional compensation. Each crabber will obviously have the option of keeping their boat and gear and fishing elsewhere. Lost income is net after expenses which should be calculated by taking gross receipts and subtracting the cost of insurance, crew, fuel, and bait. Paper losses such as depreciation used for Internal Revenue purposes only, should not be subtracted in calculating net income.

The crabbers will have until February 1st to file a claim and the Interior Department will then have six months to act on those claims. There will be an appeals process with a right to go to court if no agreement is reached on an acceptable compensation plan. The office of the Assistant Secretary for Parks and Wildlife has pledged to me to expedite this process so the Dungeness crabbers will be compensated as quickly as possible.

The compromise that was reached also maintains the State of Alaska's prerogatives with respect to state management of the state's fisheries. There will be a cooperative management plan developed jointly by the Interior Department and the State of Alaska. As that plan is developed, I have been assured by the Secretary's office that the Glacier Bay Working Group representing the fishing industry will be consulted. There will be a full public process including hearings, testimony, and an opportunity to comment on any proposed plan.

In addition, the legislation includes a savings clause to clarify that nothing in the Act undermines the power and authority of the State of Alaska to manage fisheries in the State. Finally, I want to make clear that unless explicitly provided in the Act, the legislation is not intended to amend the Alaska National Interest Lands Conservation Act which generally and specifically governs management of Glacier Bay National Park and Preserve as well as subsistence and commercial fishing.

With respect to subsistence fishing, while the Interior Department would not agree to explicitly allow subsistence activities, I was assured by the Secretary's office that personal use fisheries could continue, most notably for the people of Hoonah who have had a long running dispute with the Park Service on this issue. I was advised that the Park Service is authorized under National Park Service Organic Act to recognize a state-run personal use fishery.

Of critical importance is the status of the outer waters of Glacier Bay. The original proposal made by the Interior Department offered no assurance that commercial fishing could continue outside the Bay itself. Language was specifically included to address this shortcoming, making it clear that commercial fishing is authorized under law and will continue to be permitted in the outer waters. Although the Secretary, acting jointly in consort with the State of Alaska, through the cooperative management plan, may retain the right to protect park resources, that goal must be achieved through reasonable regulation. For example, an area around a seal rookery may be closed to salmon fishing to protect that specific location, but the rest of the outside waters must remain open to salmon fishing.

I view this compromise as an insurance policy, a safety net that offers better protection to Glacier Bay's fishermen than was offered by the draft Park Service regulations. But I do not view it as the end of the story. There are provisions I do not like.

Senator MURKOWSKI has already indicated his intention to introduce legislation on this issue and hold hearings in the Senate Energy Committee which he chairs. I also have indications that Congressman YOUNG, the Chairman of the House Resources Committee, has similar plans. The Secretary of the Interior agreed to extend the comment period on the pending agency regulations until January 15, 1999.

One issue that has not been addressed in this legislative compromise are the losses of local communities and fish processing companies. The Interior Department acknowledges that this is a shortcoming and has pledged to work with me and the rest of the Delegation to address this issue. I pledge to work with local communities and processors in the months ahead.

INTERNET SPEECH REGULATION

Mr. LEAHY. Mr. President, last week's Washington Post proclaimed in one headline, ''High Tech is King of the Hill,'' citing the passage of several bills which I actively supported, including restricting Internet taxes, enhancing protection for copyrighted works online, and encouraging companies to share information to avoid Year 2000 computer failures. Yet, anyone familiar with the Internet proposals buried in the Omnibus Appropriations measure would be writing a different headline this week.

Certain provisions in this huge spending bill repeat the mistakes about regulating speech on the Internet that the last Congress made when it passed the Communications Decency Act, the

''CDA-I.'' I opposed the CDA from the start as fatally flawed and flagrantly unconstitutional. I predicted that the CDA would not pass constitutional muster and, along with Senator FEINGOLD, sought to repeal the CDA so that we would not have to wait for the Supreme Court to fix our mistake.

We did not fix the mistake and so, as I predicted, the Supreme Court eventually did our work for us. All nine Justices agreed that the CDA was, at least in part, unconstitutional. Justice STEVENS, writing for seven members of the Court, called the CDA ''patently invalid'' and warned that it cast a ''dark shadow over free speech'' and ''threaten[ed] to torch a large segment of the Internet community.'' *Reno* v. *ACLU*, 117 S.Ct. 2329, 2350 (1997). The Court's decision came as no surprise to me, and should have come as no surprise to the 84 members of the Senate who supported the legislation.

We had been warned by constitutional scholars and Internet experts that the approach we were taking in the CDA would not stand up in court and did not make sense for the Internet. In the end, three district court panels and the Supreme Court all ultimately agreed in striking down the CDA-I as an unconstitutional restriction on free expression.

Congress is about to make the same mistake again by including in the Omnibus Appropriations bill the ''Child Online Protection Act,'' or ''CDA-II.'' I have spoken before, on July 21, 1998, about my opposition to a version of this legislation that was included, without debate, on the annual funding bill for the Commerce, State and Justice Departments.

My opposition to these efforts to regulate Internet speech should not be misunderstood. I join with the sponsors of these measures in wanting to protect children from harm. I prosecuted child abusers as State's Attorney in Vermont, and have worked my entire professional life to protect children from those who would prey on them. In fact, earlier this month, the Congress passed the Hatch-Leahy-DeWine version of the ''Protection of Children from Sexual Predator Act,'' H.R. 3494, to enhance our Federal laws outlawing child pornography. We should act whenever possible to protect our children, but we have a duty to ensure that the means we use to protect our children do not do more harm than good. As the Supreme Court made clear when it struck down CDA-I, laws that prohibit protected speech do not become constitutional merely because they were enacted for the important purpose of protecting children.

CDA-II makes a valiant effort to address many of the Supreme Court's technical objections to the CDA. Nevertheless, while narrower than its CDA-I predecessor, this legislation continues to suffer from substantial constitutional and practical defects. The core holding of the CDA-I case was that ''the vast democratic fora of the Internet'' deserves the highest level of protection from government intrusion—the highest level of First Amendment scrutiny. Courts will assess the constitutionality of laws that regulate speech over the Internet by the same demanding standards that have traditionally applied to laws affecting the press.

The CDA-II provisions included in the Omnibus Appropriations bill do not meet those standards.

CDA-II would penalize the posting ''for commercial purposes'' on the World Wide Web of any material that is ''harmful to minors.'' Penalties include fines of up to $50,000 per day of violation, up to 6 months' imprisonment and, under a separate section of the bill, forfeiture of eligibility for the Internet tax moratorium. Like the old CDA-I, this new provision creates an affirmative defense for those who restrict access by requiring use of a credit card, debit account, adult access code, adult personal identification number, a digital certificate verifying age, or other reasonable measures. This new criminal prohibition raises a number of constitutional and practical issues that have been entirely ignored by this Congress.

First, the scope of CDA-II is unclear. The prohibition applies to anyone ''engaged in the business'' of making any communication for commercial purposes by means of the World Wide Web. Vendors selling pornographic material from Web sites are clearly covered, but also many other unsuspecting persons and businesses operating Web sites will likely fall under this prohibition. Under new section 231(e)(2)(B) of title 47, U.S.C., ''it is not necessary that the person make a profit'' or that the Web site ''be the person's sole or principal business or source of income.'' Does CDA-II cover companies that offer free Web sites, but charge for their off-line services? If CDA-II does not apply in that circumstance, would the measure have the unintended effect of encouraging the posting of ''harmful'' materials on the Web for free? Does CDA-II apply to a business that merely advertises on the Web? Does CDA-II apply to public service postings sponsored by businesses on the Web?

In the face of this uncertainty, entrepreneurs, small businesses and other companies who maintain a Web site as a way to enhance their business may face criminal liability if they post material—for free, for advertising, or for a fee—which some community in this country may perceive to be ''harmful to minors.''

Second, CDA-II adopts a ''harmful to minors'' standard that will likely be found unconstitutional. CDA-II defines ''material that is harmful to minors'' as what the ''average person, applying contemporary community standards,'' would find, taken as a whole and with respect to minors, is designed to appeal to the prurient interest, depicts in a manner patently offensive to minors actual or simulated sexual acts or contact, and lacks serious literary, artistic, political or scientific value. The provision further defines a ''minor'' to be ''any person under 17 years of age.''

The ''17 year old'' age cutoff in CDA-II makes this measure significantly more restrictive than the ''harmful to minors'' statutes adopted in most states, including in my home state of Vermont. Most state ''harmful to minors'' statutes restrict materials that would be harmful to minors under the age of 18. These statutes are interpreted to prohibit only that material which would be harmful for the oldest minor. Thus, by setting the age at ''under 17,'' CDA-II would prohibit material on the Web that is inappropriate or harmful for 16 year olds. Consequently, CDA-II would impose more restrictions on the material that can be freely accessible on the World Wide Web than most states impose on materials available for sale in bookstores, news stands, and movie theaters within their borders.

Yet, unlike books, magazines, movies or even broadcasts, where the vendor can control the physical places to which the material is distributed, a person posting material on a Web site cannot restrict access to only Internet users from certain geographic regions. Indeed, Web site operators often cannot determine the region of the country, or the world, from which users are initiating their access.

As a consequence, Web site operators will have to tailor the material accessible on their sites to content that would pass muster in the most conservative community in the country for children 16 years old and younger. The standards of every other community would be discounted. Thus, the bill's core effect will be to set—for the first time—a single, national harmful to minors standard for material on the World Wide Web. Moreover, this standard will be more restrictive than those already in place in most states.

This result runs counter to existing ''harmful to minors'' law as articulated by the Supreme Court. The Supreme Court has never approved of a single, national obscenity standard, nor has it approved a ''harmful to minors'' statute based on a national, as opposed to local, standard. On the contrary, the Supreme Court in *Miller* v. *California*, 413 U.S. 15, 30–32 (1973), stated that:

> our Nation is simply too big and too diverse . . . to reasonably expect that such standards could be articulated for all 50 States in a single formulation. . . . It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas, or New York City.

Reducing the material available on the Web to that which only the most conservative community in the country deems to be appropriate for 16-year-olds, could very well remove material that is both constitutionally protected and socially valuable. The online publication of the Starr report, in whole or in part, Robert Mappelthorpe's pictures, or PG, PG–13, and certainly R-

rated movies or TV shows would be suspect.

CDA-II provides an affirmative defense for online publishers of such material that demand credit card numbers or other adult identification. A similar defense did not save CDA-I, however, and remains insufficient to reduce the significant burden on protected speech that the new prohibition imposes. The Supreme Court noted in analyzing this defense in CDA-I, that such a requirement would '''completely bar adults who do not have a credit card and lack the resources to obtain one from accessing any blocked material.''' 117 S.Ct at 2337.

In addition to burdening the speech rights of adults, the Supreme Court questioned the effectiveness of this defense in CDA-I to protect children, stating:

> . . . it is not economically feasible for most noncommercial speakers to employ such verification . . . Even with respect to commercial pornographers that would be protected by the defense, the Government failed to adduce any evidence that these verification techniques actually preclude minors from posing as adults. Given that the risk of criminal sanctions 'hovers over each content provider, like the proverbial sword of Damocles,' the District Court correctly refused to rely on unproven future technology to save the statute.'' 117 S.Ct. at 2349–50.

The technology required to exercise the affirmative defense remains practically difficult and prohibitively expensive for many Web sites. As a result, just as the Supreme Court found with CDA-I, CDA-II would effectively chill the publication of a large amount of valuable, constitutionally-protected speech on popular commercial web sites such as CNN.com, amazon.com, or the New York Times online. As the Court restated in its decision on CDA-I, '''[t]he level of discourse reaching a mailbox simply cannot be limited to that which would be suitable for a sandbox.''' 117 S.Ct. at 2346.

Third, CDA–II will be ineffective at protecting children. In evaluating whether the burdens that CDA–II will place on Web publishers are justified, we must take a realistic look at how well these new restrictions will work to protect children from harmful online materials. As the Supreme Court noted, adult identification or verification techniques can be falsely used by children to gain access to forbidden material.

In addition, CDA–II is limited to activity on the Web, presumably to capture the material that the Supreme Court believed was susceptible to use of verified credit cards. Those of us who use the Internet recognize that the Web is merely one of several Internet protocols, although the one most amenable to pictorial or graphic displays. Limiting the reach of this measure to the Web excludes newsgroups, FTP sites, e-mail, chat rooms, private electronic bulletin board systems (BBS), and gopher sites, where children may continue to access harmful materials. Indeed, I am concerned that the unintended consequence of applying CDA–II's ill-considered speech restrictions on the Web will simply force Internet content providers and users to use or develop other protocols with which they would be able to exercise their First Amendment rights unfettered by the threat of criminal prosecution.

Those of us who use the Internet and the World Wide Web also recognize that this is a global medium, not just a network under United States control. Indeed, a large percentage of content on the Internet originates outside the United States, and is as accessible over the Web as material posted next door. Objectionable material is likely to come from outside the United States and be unreachable by American laws.

The Justice Department, in a letter dated October 5, 1998, on CDA–II that I would ask to be included in the record, stated, ''the practical or legal difficulty in addressing these considerable alternative sources from which children can obtain pornography raises questions about the efficacy of the [CDA–II] and the advisability of expending scarce resources on its enforcement.''

The warning by the Justice Department that this measure will detract from current efforts to stop the distribution of illegal child pornography has apparently gone unheeded by Congress. The Justice Department has made clear that CDA–II would ''divert the resources that are used for important initiatives such as Innocent Images,'' a successful online undercover program to stop child predators and pornographers. The work that the Justice Department has done in going after the worst offenders, highlighted by the recent international crack down on child-pornography, should not be diluted by broadening their enforcement load to embrace an unconstitutional standard.

Fourth, Congress simply has not done its homework to consider alternative effective means to protect children from harmful online materials. The Senate is considering CDA–II, including its creation of a new Federal crime, as part of an omnibus spending measure. Until recently the Senate had rules and precedent against this kind of legislating on an appropriations bill. Under Republican leadership, that discipline has been lost and we are left to consider significant legislative proposals as part of annual appropriations. These matters are far-reaching. They deserve full debate and Senate consideration before good intentions lead the Senate to take another misstep in haste.

The Congress has not held hearings on the CDA–II provisions before us. The Senate Commerce Committee hearing in February, 1998, elicited only the testimony of this measure's primary sponsor about a prior version of the bill, and no other testimony about its constitutionality. The Congress has made only the most minimal efforts to determine whether technical tools or this measure would be the least restrictive means of protecting children. There has been no study, no discussion, and no comparison of the effectiveness of various approaches, their likely impact on speech, and their appropriateness for the Internet.

Ironically, CDA–II puts the proverbial cart-before-the-horse by enacting new speech restrictions at the same time the bill establishes a ''Commission on Online Child Protection'' to study the technical means available to protect children from harmful material. While the selection of the members of this Commission is left solely to Republican congressional leadership, we should at least hear from the Commission before legislating. As the letter from the Department of Justice advises, ''Congress should wait until the Commission has completed its study and made its legislative recommendations before determining whether a criminal enactment would be necessary, and if so, how such a statute should be crafted.'' This approach would allow Congress to create a record on the most effective means to solve the problem instead of passing an ineffective law.

In striking the CDA–I as unconstitutional, the Supreme Court specifically cited ''the absence of any detailed findings by the Congress, or even hearings addressing the special problems of the CDA'' as grounds for its finding ''that the CDA is not narrowly tailored if that requirement has any meaning at all.'' 117 S.Ct. at 2348. The Congress is repeating this mistake here, since it has again not established a record showing that the extraordinary restrictions on Internet expression proposed in the CDA–II are the least restrictive way to achieve our goal of protecting children online. Congress is required to establish such a record if it seeks to impose these sorts of burdens of the speech of our citizens.

Experts have told us that there are better ways to protect children that have less of an impact on constitutionally protected speech, including the use of blocking and filtering tools that give parents the ability to control access to harmful content both within and outside of the United States. Harvard Law School Professor Larry Lessig, who is an expert on both constitutional law and Internet law, has described at least one less restrictive alternative—the use of voluntary ''kid certificates'' online—that would have the same effect Congress is trying to achieve while placing far less of a burden on free speech. I ask that his letter be made part of the RECORD.

It is precisely because these less restrictive means exist, and because Congress has not shown otherwise, that the CDA–II is most likely to fail in the courts.

Finally, there are constructive steps that Congress can and should take. Although CDA–II would not solve the problems facing parents and educators on how to protect their children from

harmful and inappropriate online material, there are several steps that Congress could take which would prove more effective.

We should hear from the Commission on Online Child Protection that is authorized in this bill to study the technical means available to protect children from harmful material.

We should do more to protect children's privacy. The Omnibus appropriations bill contains a provision authorizing the FTC to require parental consent from children to give out personal information to Web sites aimed at children or where the age of child has been collected. These privacy provisions have broad support and could be a way for Congress effectively and constitutionally to protect children online without detracting from the current mission of law enforcement.

We should not rush to legislate when non-legislative solutions may be more effective and consistent with our constitutional principles. Instead of trying to create a national harmful to minors standard, Congress should encourage companies and non-profit organizations who have responded to this problem with wide-ranging efforts to create child-friendly content collections, teach children about appropriate online behavior, and develop voluntary, user-controlled, technology tools that offer parents the ability to protect their own children from inappropriate material. Unlike legislative approaches, these bottom-up solutions are voluntary. They protect children and assist parents and care-takers regardless of whether the material to be avoided is on an American or foreign Web site. They respond to local and family concerns, and they avoid government decisions about content.

We can and must do better than CDA–II. This measure will do almost nothing to protect children from harmful material online, but will divert Federal enforcement resources, restrict constitutionally-protected free speech online and set a dangerous precedent for Federal regulation of the Internet. Perhaps worst of all, it will create the illusion of a solution. This Congress should not be in the business of lulling parents into a false sense of security while in fact doing nothing to protect children online.

Many members who have supported CDA–II are no doubt motivated by the same thing that motivates me in this area: a desire to protect children online. I am afraid, however, that we have not taken the time to craft a legislative solution that will actually help solve this problem. The Congress has been put on notice that our approach will not work, and will probably end up in court for yet another battle. We should not run another ambiguous speech regulation up the flagpole and expect the courts to salute. We owe it to the millions of Americans who use the Web not to make the same mistake a second time.

Now, Mr. President, I ask unanimous consent that a letter from Acting Attorney General Anthony Sutin from the Department of Justice and a letter from Harvard University Professor Lawrence Lessig in opposition to the Child Online Protection Act be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 5, 1998.

Hon. THOMAS BLILEY,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

This letter sets forth the views of the Department of Justice on H.R. 3783, the ''Child Online Protection Act'' (''the COPA''), as ordered reported. We share the Committee's goal of empowering parents and teachers to protect minors from harmful material that is distributed commercially over the World Wide Web. However, we would like to bring to your attention certain serious concerns we have about the bill.

The principal provision of the COPA would establish a new federal crime under section 231 of Title 47 of the United States Code. Subsection 231(a)(1) would provide that:

''Whoever, in interstate or foreign commerce, by means of the World Wide Web, knowingly makes any communication for commercial purposes that includes any material that is harmful to minors without restricting access to such material by minors pursuant to subsection (c) shall be fined not more than $50,000, imprisoned not more than 6 months, or both.''

Subsection 231(a)(2), in turn, would provide for additional criminal fines of $50,000 for ''each day'' that someone ''intentionally violates'' §231(a)(1); and §231(a)(3) would provide for additional civil fines of $50,000 for ''each day'' that a person violated §231(a)(1). Subsection 231(b) would exempt certain telecommunications carriers and other service providers from the operation of §231(a)(1). Subsection 231(c)(1) would establish what is denominated an ''affirmative defense'':

''(1) DEFENSE.—It is an affirmative defense to prosecution under this section that the defendant, in good faith, has restricted access by minors to material that is harmful to minors—

''(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number; or

''(B) by any other reasonable measures that are feasible under available technology.''

Subsection 231(e) would define, *inter alia*, the following terms in the criminal prohibition: (i) ''by means of the World Wide Web''; (ii) ''commercial purposes''; (iii) ''material that is harmful to minors,'' and ''minor.'' *See* proposed §231(e) (1), (2), (6) & (7). In particular, ''material that is harmful to minors'' would be defined as:

''. . . any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

''(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that such material is designed to appeal to or panders to the prurient interest;

''(B) depicts, describes, or represents, in a patently offensive way with respect to minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals or female breast; and

''(C) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.''

The Department's enforcement of a new criminal prohibition such as that proposed in the COPA could require an undesirable diversion of critical investigative and prosecutorial resources that the Department currently invests in combating traffickers in hard-core child pornography, in thwarting child predators, and in prosecuting large-scale and multidistrict commercial distributors of obscene materials. For example, presently the Department devotes a significant percentage of our resources in this area to the highly successful Innocent Images online undercover operations, begun in 1995 by the FBI. Through this initiative, FBI agents and task force officers go on-line, in an undercover capacity, to identify and investigate those individuals who are victimizing children through the Internet and on-line service providers. Fifty-five FBI field offices and a number of legal attaches are assisting and conducting investigations in direct support of the Innocent Images initiative. To ensure that the initiative remains viable and productive, the Bureau's efforts include the use of new technology and sophisticated investigative techniques, and the coordination of this national investigative effort with other federal agencies that have statutory investigative authority. We also have allocated significant resources for the training of state and local law enforcement agents who must become involved in our effort. To date, the Innocent Images national initiative has resulted in 196 indictments, 75 informations, 207 convictions, and 202 arrests. In addition, 456 evidentiary searches have been conducted.

We do not believe that it would be wise to divert the resources that are used for important initiatives such as Innocent Images to prosecutions of the kind contemplated under the COPA. Such a diversion would be particularly ill-advised in light of the uncertainty concerning whether the COPA would have a material effect in limiting minors' access to harmful materials. There are thousands of newsgroups and Internet relay chat channels on which anyone can access pornography; and children would still be able to obtain ready access to pornography from a myriad of overseas web sites. The COPA apparently would not attempt to address those sources of Internet pornography, and admittedly it would be difficult to do so because restrictions on newsgroups and chat channels could pose constitutional questions, and because any attempt to regulate overseas web sites would raise difficult questions regarding extraterritorial enforcement. The practical or legal difficulty in addressing these considerable alternative sources from which children can obtain pornography raises questions about the efficacy of the COPA and the advisability of expending scarce resources on its enforcement.

Second, such a provision would likely be challenged on constitutional grounds, since it would be a content-based restriction applicable to ''the vast democratic fora of the Internet,'' a ''new marketplace of ideas'' that has enjoyed a ''dramatic expansion'' in the absence of significant content-based regulation. *Reno* v. *ACLU*, 117 S. Ct. 2329, 2343, 2351 (1997). As the Court in ACLU suggested, *id.* at 2341 (discussing *Ginsberg* v. *New York*, 390 U.S. 629 (1968)), it may be that Congress could, consistent with the First Amendment, enact an Internet version of a ''variable obscenity,'' harmful-to-minors prohibition, analogous to state-law statutes prohibiting bookstores from displaying to minors certain materials that are obscene as to such minors. *See, e.g., American Booksellers* v. *Webb*, 919 F.2d 1493 (11th Cir. 1990), *cert denied*, 500 U.S. 942 (1991); *American Booksellers Ass'n* v. *Virginia*, 882 F.2d 125 (4th Cir. 1989), *cert denied*, 494 U.S. 1056 (1990), *Davis-Kidd Booksellers, Inc.* v. *McWherter*, 866 S.W.2d 520

(Tenn. 1993). However, it is not certain how the constitutional analysis might be affected by adaptation of such a scheme from the bookstore context in which it previously has been employed to the unique media of the Internet. Because it may be more difficult for Internet content providers to segregate minors from adults than it is for bookstore operators to do the same, and because the Internet is, in the Court's words, a ''dynamic, multifaceted category of communication'' that permits ''any person with a phone line'' to become ''a town crier with a voice that resonates farther than it could from any soapbox,'' *ACLU,* 117 S. Ct. at 2344, the Court is likely to examine very carefully any content-based restrictions on the Internet.

The decision in ACLU suggests that the constitutionality of an Internet-based ''harmful-to-minors'' statute likely would depend, principally, on how difficult and expensive it would be for persons to comply with the statute without sacrificing their ability to convey protected expression to adults and to minors. And the answer to that question might depend largely on the ever-changing state of technology, the continuing progress that the private sector makes in empowering parents and teachers to protect minors from harmful material, and the scope and detail of the record before Congress. In this regard, it is notable that the COPA also would establish a Commission (see §6) to study the ways in which the problem could most effectively be addressed in a time of rapidly evolving technologies. In light of the difficult constitutional issues, we believe that Congress should wait until the Commission has completed its study and made its legislative recommendations before determining whether a criminal enactment would be necessary, and if so, how such a statute should be crafted.

Finally, the COPA as drafted contains numerous ambiguities concerning the scope of its coverage. Such ambiguities not only might complicate and hinder effective prosecution; they also might ''render [the legislation] problematic for purposes of the First Amendment,'' by ''undermin[ing] the likelihood that the [bill] has been carefully tailored to the congressional goal of protecting minors from potentially harmful materials.'' *ACLU,* 117 S. Ct. 2344. Among the more confusing or troubling ambiguities are the following:

''(a) While the COPA mentions that minors' access to materials on the Internet 'can frustrate parental supervision or control' over their children, §2(1), the only 'compelling interest' that the COPA would invoke as a justification for its prohibition is 'the protection of the physical and psychological well-being of minors by shielding them from materials that are harmful to them,' id. §2(2). The constitutionality of the bill would be enhanced if Congress were to identify as the principal compelling interest the facilitation of parents' control over their children's upbringing, in addition to the government's independent interest in keeping certain materials from minors regardless of their parents' views. *See, e.g., ACLU,* 117 S. Ct. at 2341 (noting that the statute in *Ginsberg* presented fewer constitutional problems than the Communications Decency Act because in the former, but not the latter, parents' consent to, or participation in, the communication would avoid application of the statute).

''(b) While the bill would not appear to apply to material posted to the Web from outside the United States, that question is not clear; and the extraterritoriality of the prohibition might affect the efficacy and constitutionality of the statute. *See ACLU,* 117 S. Ct. at 2347 n. 45.

''(c) It is unclear what difference is intended in separately prohibiting 'knowing' violations (proposed §231(a)(1)) and 'intentional' violations (proposed ''§231(a)(2)); and there is no indication why the two distinct penalty provisions are necessary or desirable. Moreover, it is not clear, in subsection (a)(1), which elements are modified by the ''knowingly'' requirement. For example, must the government prove that the defendant knew that the communication contained the harmful-to-minors material? That the defendant knew the materials were, in fact, harmful to minors? Nor is it clear what it would mean, in the context of distribution of the targeted materials over the World Wide Web, to violate subsection (a)(1) ''intentionally.''

''(d) Proposed §231(a)(3) would provide for civil penalties; but that section does not indicate how such penalties are to be imposed and enforced—e.g., who would be responsible for bringing civil actions. In this regard, we should note that if Congress were to eliminate criminal penalties altogether, in favor of civil penalties, that would improve the likelihood that the statute eventually would be found constitutional. *See, e.g., ACLU,* 117 S. Ct. at 2342 (distinguishing the civil penalties upheld in the ''indecency'' statute at issue in *FCC* v. *Pacifica Foundation,* 438 U.S. 726 (1978), from the criminal penalties in the CDA).

''(e) The titles of §3 of the bill, and of proposed §231 of Title 47, refer to materials ''sold by means of the World Wide Web''; and yet the prohibition itself does not appear to prohibit merely the ''sale'' of harmful material, although it is limited to communications ''for commercial purposes.''

''(f) One of the elements of the basic prohibition in proposed §231(a)(1) would be that the defendant made the communication ''without restricting access to such material by minors pursuant to subsection (c).'' Yet subsection (c) itself would provide that such a restriction of access is an affirmative defense. This dual status of the ''restricting access' factor appears to create a redundancy; at the very least, it leaves unclear important questions regarding burdens of proof with respect to whether a defendant adequately restricted access.

''(g) The COPA definition of ''materials that is harmful to minors'' would be similar to the ''variable obscenity'' state-law definitions that courts have upheld in cases (cited above) involving restrictions on the display of certain material to minors in bookstores. Those state statutes have, in effect, adopted the ''obscenity as to minors'' criteria approved in *Ginsberg* as modified in accordance with the Supreme court's more recent obscenity standards announced in *Miller* v. *California,* 413 U.S. 15, 14 (19873). But the COPA's definition would, in several respects, be different from the definitions typically used in those state statutes, and the reasons for such divergence are not clear. Is the definition intended to be coterminous with, broader, or narrower than, the standards approved in the cases involving state-law display statutes? The breadth and clarity of the coverage of the COPA's ''harmful to minors'' standards could have a significant impact on the statute's constitutionality.

''(h) Particular ambiguity infects the first of the three criteria for ''material that is harmful to minors,'' proposed §231(e)(6)(A). (i) The words ''that such material'' appear extraneous. (ii) It is unclear whether ''is designed to'' is supposed to modify ''panders to,'' and, if not, whether the ''panders to'' standard is supposed to reflect the intended or the actual effect of the expression ''with respect to minors.'' (iii) Which ''contemporary community standards'' would be dispositive? Those of the judicial district (or some other geographical ''community'') in which the expression is ''posted''? Of the district or local community in which the jury sits? Of some ''community'' in cyberspace? Some other ''community''? Resolution of this question might well affect the statute's constitutionality. *See ACLU,* 117 S. Ct. at 2345 n.39.

''(i) Must the material, taken as a whole, ''lack serious literary, artistic, political, or scientific value'' for all minors, for some minors, or for the ''average'' or ''reasonable'' 16-year-old minor? *See, e.g., American booksellers,* 919 F2d at 1504–05 (under a variable obscenity statute, ''if any reasonable minor, including a seventeen-year-old, would find serious value, the material is not 'harmful to minors' ''); *Davis-Kidd Booksellers,* 866 S.W. 2d at 528 (same); *American Booksellers Ass'n,* 882 F.2d at 127 (sustaining constitutionality of a state variable obscenity statute after state court had concluded that a book does not satisfy the third prong of the statute if it is ''found to have a serious literary, artistic, political or scientific value for a legitimate minority of normal, older adolescents'').

''(j) In the definition of ''engaged in the business'' (proposed §231(e)(2)(B)), it is not clear what is intended by the reference to ''offering to make such communications.'' Also unclear is the effect of the modifier ''knowingly'' in that same definition's clarification that a person may be considered to be ''engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.'' Must the person know that the material is posted on the Web? That the material is harmful to minors? That he or she ''cause[d]'' the material to be posted?''

In addition, we have concerns with certain facets of the proposed Commission on Online Child Protection, which would be established under §6 of the bill. The Commission would be composed of fourteen private persons engaged in business, appointed in equal measures by the Speaker of the House and the Majority Leader of the Senate, as well as three ''ex officio'' federal officials (or their designees): the Assistant Secretary of Commerce, the Attorney General and the Chairman of the Federal Trade Commission. The principal duty of the Commission, see §6(c)(1), would be:

''. . . to conduct a study . . . to identify the technological or other methods to help reduce success by minors to material that is harmful to minors on the Internet, [and] which methods, if any—

''(A) that the Commission determines meet the requirements for use as affirmative defenses for purposes of section 231(a) . . . ; or

''(B) may be used in any other manner to help reduce such access.''

If subsection (A) of this provision were construed to permit or to require the Commission to ''determine,'' as a matter of law, which methods would satisfy the affirmative defense established in §23(c), it would violate the constitutional separation of powers because most of the Commission members would be appointed by congressional officials and would not be appointed in conformity with the Appointments Clause of the Constitution, article II, section 2, clause 2. Accordingly, we would urge deletion of the portion of §6(c)(1) that follows the word ''Internet.'' For similar reasons, we urge deletion of §6(d)(4), which would require the Commission, as part of the report it submits to Congress, to describe ''the technologies or methods identified by the study that may be used as affirmative defenses for purposes of section 231(c) . . .'' (Even if such a delegation of responsibility to the proposed Commission

were otherwise permissible, it would be unwise, in our view, as a matter of policy to permit the Commission—in essence—to make such determination about a criminal offense.)

Thank you for the opportunity to present our views on this matter. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

L. ANTHONY SUTIN,
Acting Assistant Attorney General.

HARVARD LAW SCHOOL,
Cambridge, MA, October 10, 1998.

Re H.R. 3783.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I note that the Senate passed a version of Congressman Oxley's H.R. 3783 earlier this year. On September 11, I testified before the Subcommittee on Telecommunications, Trade, and Consumer Protection, of the House Committee on Commerce, at a hearing devoted to various proposals for regulating access to material deemed ''harmful to minors.'' Subsequent developments have convinced me that the approach presently being considered is unconstitutional.

My view at that time, with respect to H.R. 3783, was that while the idea of require adult IDs could in principle be constitutional, the existing ID technologies would be constitutionally too burdensome. Given other adult ID technologies, the requirement (predominate in the statute) that adult turn credit numbers over to pornographers in order to get access to constitutionally protected speech struck me as too great a burden.

Since my testimony, an argument by Professor Mark Lemley of The University of Texas Law School, has strengthened my view that there are serious constitutional problems with this approach. Lemley proposes that rather than requiring adult IDs, a less restrictive alternative would be a statute that facilitated the development of kid IDs—digital certificates that would be bound to a user's browser, but that would simply identify the user as a minor. A law could then require that servers with material deemed ''harmful to minors'' block access by users with such certificates. Such certificates, again, would reveal no information except that a user was a minor.

Such a proposal, in my view, would be seen by a court to be a clearly less restrictive alternative under First Amendment jurisprudence. If so, the proposal would then render the means proposed in H.R. 3783 unconstitutional.

While there are important details to be worked out in the ''kid IDs'' alternative, I will note one other feature that might be of interest. If kid IDs were generally available, then Congress could more easily require commercial sites not to gather data from kids. As it is, any rule that commercial sites not gather data from kids would be hard to enforce. But if such IDs became common, these other regulatory purposes would be more easily achieved.

If there is more information that I can provide, please let me know.

With kind regards,

LAWRENCE LESSIG.

Mr. HATCH. Mr. President, I suppose that it is appropriate that we are passing this bill just a week before Halloween. It seems as though we have spent the better part of five days trying to unmask its provisions. And, some of the sections have been like ghosts—first you see them, now you don't.

I confess that I share the frustration voiced by many of my colleagues yesterday from both sides of the aisle about this extremely unorthodox process. I suppose it is somewhat reassuring that Senators on both sides of the aisle are similarly put off by the process because perhaps then we will not inflict it on ourselves or the American people next year.

Let me start with the fact that, at least technically, it is out of order to authorize on an appropriations bill. We have from time to time bent that rule—sometimes quite liberally. But, today, we not only bent it, we smashed it to smithereens. I admit to having tried to amend appropriations bills with authorizations during my tenure in the Senate, but I am quickly coming around to the notion that we must get back to a stricter adherence to that particular rule of the Senate.

One of the reasons for this rule, in addition to being able to control the appropriations process, is to ensure that the authorizing committees are not circumvented. The authorizing committees of the Senate have developed expertise on the various policy issues we must consider and act upon, and I believe that we do not fully carry out our duty to citizens and taxpayers when we fail to vet thoroughly these proposed changes in law.

I am not talking only about the Judiciary Committee, although I do feel strongly that we could have provided constructive input. The authorizing committees play an important role in policy development.

And, I think it is essential that we assert right here and now that national policy is not just about money. While the appropriations aspects of Congress' job is certainly of utmost importance, the authorizing process shapes the programs and establishes the rules for the expenditure of federal funds. One function is as important as the other. I do hope that this major bypass of the authorizing committees will not become habit-forming.

Second, we should all be concerned about the perception that this backwards procedure—one in which we are considering conference reports on bills that have not even passed the Senate yet—will set a precedent for the future.

Mr. President, I hope my colleagues on both sides of the aisle will join me in a sweeping denunciation of this as anything other than a one-time event. We cannot consider this omnibus, catch-all, 11th hour approach to be a model for how to extract ourselves from the dangerous prospect of an imminent government shutdown.

And, by the term''we,'' I also include the President of the United States. I would like to send a message to President Clinton right now. Don't try playing this game of legislative chicken again. I may resolve much differently.

Third, while I appreciate the effort of Senators LOTT and STEVENS and others to ensure that this bill does not make permanent changes in the budget rules or lift the budget caps we so painstakingly negotiated in the Balanced Budget Act, the bill before us takes the unheard of step of designating tax breaks as ''emergencies.''

While I strongly support the idea of tax relief—indeed, I have strongly supported each one of the items in this tax package for farmers—I am not so sure that we should be starting down the steep and slippery slope of using the emergency designation in this way. I hope that we will all look at this as one-of-a-kind occurrence and not as a new procedural loophole that we continue to use in the future.

Fourth, Mr. President, I am also disappointed by the fact that we are using a portion of the surplus to pay for additional spending. I supported the pledge of saving the surplus for Social Security and thought that we should move toward that goal. This bill, however, breaks that promise.

Last January, one of the President's most memorable lines from his State of the Union speech was ''Save Social Security first.'' In reality, however, he has supported, practically insisted, on using that same surplus for more government spending. I applaud Senator LOTT and Speaker GINGRICH for keeping this encroachment on the surplus and Social Security to a minimum.

I hope that during the next Congress, we can resurrect that bipartisan spirit of fiscal integrity and responsibility we shared to get the budget balanced in order to keep the budget balanced. If we continue to feed the voracious appetite of big government at the trough of the so-called surplus, we will not have that surplus for long.

If there is one thing that we should all be united in, it is maintaining a balanced budget. This is perhaps the most important thing that any Congress can do. It is critical for the future growth of the U.S. economy, increases in the standard of living for our workers, and, indeed, the very future of the country.

Mr. President, the unorthodox process is certainly one issue, but it is not the only or even the principal issue. There are substantive problems with this bill as well.

Let me begin with a provision that is under the jurisdiction of the Judiciary Committee. I must speak out against inclusion of Title One of the euphemistically entitled ''Citizens Protection Act.'' This ill-advised provision passed the House as an amendment to the House Commerce, State, Justice Appropriations bill but it never passed the Senate. Indeed, it has been opposed by a bipartisan majority of the Senate Judiciary Committee. Under the guise of setting ethical standards for federal prosecutors and other attorneys for the government, it will severely hamper the ability of the Department of Justice to enforce federal law and cede authority to regulate the practice of law by federal prosecutors in our federal courts to more than fifty state bar associations. Indeed, this provision alone

caused me to consider voting against this conference report.

The sponsor of this measure is Representative JOE MCDADE, a man who, by all accounts, was wrongly prosecuted by zealous federal prosecutors and who has been vindicated. I have great respect for Representative MCDADE and sympathy for the objectives he seeks to protect.

Many in Congress and citizens around the country have been, at one time or another, the subject of unfounded ethical or legal charges. No one wants more than I to ensure that all federal prosecutors are held to the highest ethical standards. That is why the Judiciary Committee staff met with Congressman MCDADE and his staff. That is why we proposed a more narrow, workable version of his ethics amendment. That is why I proposed that we establish a Commission to investigate alleged cases of wrongdoing by federal prosecutors and to make recommendations to Congress.

Unfortunately, the House Leadership and others did not accept my proposal. Instead, I fear that, in a understandable desire to redeem those who have been wronged by zealous prosecutors, we have included a provision which is far too broad.

In its most relevant part, the so-called McDade provision states that an ''attorney for the government shall be subject to State laws and rules . . . governing attorneys in each state where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that state.'' This may sound innocuous, until one realizes why state laws and rules governing the conduct of attorneys exist in the first place—to protect the integrity of the civil and criminal legal systems in the state and govern the practice of law in the courts of that state. It is this very purpose which makes inappropriate the blanket application to federal attorneys in federal court of all state bar rules.

The federal government has a responsibility and the legitimate lead role in the investigation and prosecution of complex multistate terrorism, drug, fraud or organized crime conspiracies, or in rooting out and punishing fraud against federally funded programs such as Medicare, Medicaid, and Social Security. It is in these very cases that the McDade provision will have its most pernicious effect.

Federal attorneys investigating and prosecuting these cases, which frequently encompass three, four, or five states, will be subject to the differing state and local rules of each of those states, plus the District of Columbia, if they are based here. Their decisions will be subject to review by the bar and ethics review boards in each of these states at the whim of defense counsel, even if the federal attorney is not licensed in that state. Practices concerning contact with unrepresented persons or the conduct of matters before a grand jury, perfectly legal and acceptable in federal courts, will be subject to state bar review and, as a result, could put an end to some undercover, federal investigations. And the very integrity and success of sensitive investigations could be compromised by the release of information during the course of these reviews. This provision is also an open invitation to clever defense attorneys to stymie federal criminal or civil investigations by bringing frivolous state bar claims.

Mr. President, the McDade provision is opposed by Attorney General Reno and by the Administration. It is opposed by a bipartisan group of six former Attorneys General of the United States from the Nixon, Carter, Reagan and Bush administrations. It is opposed by the Director of the FBI, the Administrator of the Drug Enforcement Administration, and the Director of the Office of National Drug Control Policy. It is opposed by law enforcement organizations such as the Fraternal Order of Police, the National Sheriffs Association, the National District Attorneys Association and the Federal Criminal Investigators Association. The National Victims Center opposes it on behalf of the victims of crime. And this provision is vigorously opposed by an overwhelming bipartisan majority of the Senate Judiciary Committee, the committee with jurisdiction over this matter. The Committee's Ranking Member Senator LEAHY has opposed this provision. Former Committee Chairmen Senators KENNEDY and THURMOND, and Committee members Senators SESSIONS, KOHL, DEWINE, DURBIN, ABRAHAM, FEINGOLD, THOMPSON, and FEINSTEIN have also written in opposition.

I would note, however, that in response to our concerns, the Leadership has inserted a provision which will delay the implementation of this provision for six months. At the very least, this will give the Department of Justice and others the opportunity to educate the Congress as to the serious effect this blanket provision will have on law enforcement. It is my hope and expectation that, during the next six months, we will be able to develop a more workable and effective solution.

In addition, the so-called 100,000 Teachers program so trumpeted by President Clinton will do virtually nothing for Utah. As if the concept of this teacher hiring program would be any more effective than the 100,000 cops program, we are appropriating $1.2 billion at the insistence of President Clinton and under threat of government shutdown.

Well, Mr. President, Utah is continually disadvantaged by the use of the Title I funding formula, which is how this money will be predominantly allocated among the states. Under this formula, we are year after year punished for our demographics. We will be lucky to eke enough out of this grant to hire a handful of teachers per district. And, the irony is that Utah ranks among those states with the highest average class sizes. This program claims reduction of class size to be its raison d'etre. I think not.

Furthermore, Mr. President, the President had an opportunity to reward states that were taxing themselves heavily for education and that were addressing the needs of poorer and rural school districts with state funds. Did he support an appropriation for the effort and equity component of the Title I formula? No, he did not.

And, what happened to ed-flex, one of the more innovative, albeit common sense, educational reforms we have seen in recent years? We are told the President would have vetoed the bill with the ed-flex provisions in it. I find myself resentful that I am in the position of being grateful for the limited flexibility that has been incorporated into the Teacher program.

I do not mean to cast any aspersions on my colleagues, who I know worked very hard to keep some local control in this program and who support educational flexibility as much as I do.

But, I ask President Clinton: What is your problem with giving states and local school districts some authority to make decisions about resource allocation? Are you afraid that the state or the locally elected boards of education may have a different priority than you do?

I am most annoyed at this lost opportunity to give states and local school districts some unrestricted federal assistance. There is no question in my mind that Utah could stretch the impact of federal help much further if given the freedom to make these determinations and to pool resources more effectively.

In view of all of this, some have suggested that I vote against this bill. I will say that on the basis of a few of these provisions, I was tempted to do so.

But, there are also some very worthy provisions in the bill which mitigate its poorer aspects.

For example, I am pleased that the tax extenders package is included in this bill. Despite my dislike for the idea of inserting a tax bill in an appropriations bill, I am glad we are getting this done. These tax provisions should not be allowed to expire; in fact, we ought to be making them permanent so we would not have to face this annual expiration crisis.

I am particularly pleased that the bill accelerates the deduction for health insurance premiums for self-employed people. It is about time we gave entrepreneurs a break on this.

I support the funding of the empowerment zones. This program is a powerful tool for revitalizing our urban areas; and I appreciate the fact that much of it is private sector driven.

Of course, the Interior Department appropriation, which is contained in the Omnibus bill, is critical to Utah. It contains funds for Washington County's desert tortoise habitat conservation program; the Bonneville Shoreline

Trail; program development and facility construction at the Grand Staircase-Escalante National Monument; and a prohibition on funds to study draining Lake Powell or decommissioning the Glen Canyon dam.

While I am critical of the Administration's educational priorities, I support the additional funds for IDEA and Impact Aid. Utah, because of our heavy concentration of federal installations, will benefit from this sizable boost in Impact Aid.

I am sincerely grateful to my colleagues on the Appropriations Committee and in the leadership for their attention to the pressing transportation needs in Utah as well as to the planning that is underway for security at the 2002 Winter Olympic Games.

Staging this event is going to require a state-of-the-art transportation system, including intermodel centers, light rail, an adequate fleet of buses, and intelligent transportation systems. This appropriation will give Utah the ability to move ahead in these areas.

Additonally, I am extremely worried about our defense. We have alarming reports that entire air squadrons are grounded for lack of spare parts to keep planes in the air. We are told that junior officers and experienced noncommissioned officers are packing up and leaving the service, creating manpower and staffing problems in every branch of the military.

Military readiness backs up diplomacy. The latter cannot succeed without the former. We simply must stop using the defense budget like a bank we can go to for spending offsets when we want them. We are risking our nation's strength and ability to influence outcomes throughout the world. And, what is more, if we do not properly maintain equipment, if we do not invest in new technologies, if we do not provide adequate housing and medical care, we do not honor our men and women in uniform.

This bill begins the process of recognizing the importance of reinvesting in defense. I support the supplemental spending in this bill for defense, particularly the emphasis on readiness and personnel.

Some defense funds are also directed toward drug interdiction efforts. This is one of several positive actions taken in this bill to fight the war on drugs. Drugs are poisoning our society, particularly our children. Drugs contribute to a variety of other crimes, including murders and robberies. We must not give up trying to eradicate this cancer from our communities, and I applaud the addition of these anti-drug measures to this bill.

I remember when, more than a year ago, Speaker GINGRICH, Congressman HASTERT, and I met to discuss how we might force this Administration to focus on the worsening drug problem. We decided that we needed to undertake a comprehensive, bicameral effort. And so we did. We met with the Administration, held numerous hearings, and worked in a cooperative manner, extending our hands across the Capitol in a united effort to do what's best for our children.

I am pleased to say that our efforts have led to some success. A number of these important provisions were produced and considered by the Senate Judiciary Committee. I want to express my pleasure with the decision to include my proposal to reauthorize the Office of National Drug Control Policy. As well, I am pleased that we were able to include the Drug Demand Reduction Act, a measure sponsored by Congressman PORTMAN in the House. I was pleased to work with Congressman PORTMAN on getting this measure considered and put in a form which would pass the Senate. In fact, I recently introduced the Senate companion measure. For all of those involved in the effort to include this important, comprehensive anti-drug package in the bill—Speaker GINGRICH; Senators COVERDELL, GRASSLEY, and DEWINE; and Congressmen HASTERT, MCCOLLUM, PORTMAN and others—I want to express my congratulations and thanks.

Mr. President, let me conclude by saying that although there are some very ligitimate things to complain about regarding the bill—and process is one of them—we must recognize as well as the bill is a compromise. And, a compromise by definition means that neither side gets everything it wants.

If I were king, would I have put forward this bill? Certainly not. But, I am not king, and neither is Senator LOTT nor Senator STEVENS. Neither is President Clinton nor Representative GEPHARDT.

The stakes in this negotiation were particularly high. We were in a situation in which we were faced with an imminent shutdown of the federal government and all of the confusion, disruption, and dislocation that entails. So, when asked by pundits why the Republicans did not hold firm on a key issue like redirecting $1.2 billion in educational assistance to states and local schools with fewer strings attached, the answer is not difficult. Because in our system of checks and balances, the President has the veto pen.

Had we engaged in a war of wills, we could have held out for a perfect version of this educational component—a more perfect version of the entire appropriation—but the result would not necessarily be good for the country. Maybe some day, the American people will reward Republicans for being better statesmen than they are politicians.

Instead we negotiated a bill that is, indeed, a compromise. There are beneficial elements to it. It is not all bad. I would like to commend the Majority Leader, Senator LOTT, and Speaker GINGRICH for their efforts on this bill. Faced with a situation in which we could not act on the regular appropriations bills individually, as we would all have preferred, he steered us through this negotiation in the best manner he could. He deserves great credit, and he deserves our support.

How we ended up in this situation has already been addressed by several members on this side of aisle. Suffice it to say that it should not be necessary to file cloture petitions on appropriations bill; it should not be necessary to debate nongermane amendments ad infinitem. But, regardless of how we ended up here, we have made the best of it, and, I believe, have finally delivered a reasonable appropriations package.

It is always easier to criticize a compromise than it is to carve one out of disparate views and agendas. I have had some experience in this. I have often been criticized for a result that was not viewed as perfect or politically advantageous, even if it was fair or worthwhile.

This omnibus appropriation is not perfect. I dare say the Majority Leader would not say it is perfect. But, it is fair, and it is worthwhile. It is worthwhile because of the components I believe merit support, some of which I have advocated for years. It is also worthwhile because it will relieve the American taxpayers of the dread and uncertainty that the government will shutdown and of their anger and frustration that their government still doesn't get it.

It is worthwhile, I believe, because it is time to put the country first—ahead of the ''wag the dog'' diversionary strategy and ahead of seeking partisan advantage on election day.

Therefore, I will vote for this omnibus appropriations bill.

WASHINGTON STATE'S USE OF THE WORD ''OLYMPIC''

Mr. GORTON. Mr. President, a small but important element of the Omnibus appropriations measure is the Olympic and Amateur Sports Act Amendments of 1998, and more specifically, a provision within this Act that recognizes that Washington state's claim to the name ''Olympic'' is both first in time, and first in right over the claim of the United States Olympic Committee.

Vital geographic features that dominate and define the State of Washington, Mount Olympus in the Olympic Mountain range, within the Olympic National Forest on the massive Olympic Peninsula, were named long before Congress chartered the USOC and permitted it to use the word ''Olympic'' to raise money to support the Olympic games and encourage the USOC's activities. In an opinion interpreting the current statute, the United States Supreme Court noted that it was fair for Congress to allow the USOC to receive the benefit of its efforts to promote and distinguish the word ''Olympic.'' In the same vein, however, where the use of the word ''Olympic'' has geographical significance that pre-dates and is independent of the USOC, it is only fair that the USOC not be able to interfere with this use.

Although there are relatively few instances in which the USOC, crying

''mine, mine, mine,'' has gone after any of the thousands of businesses in Washington state that use the word ''Olympic,'' the attitude that the USOC has displayed in these few instances demands correction. I would like to thank State Representative Jim Buck for bringing them to my attention. I am as much a sports enthusiast as the next person, and it has never been my intent to undermine the USOC's ability to raise money through licensing. The USOC remains a creature of Congress, however, and it is incumbent on us to prescribe reasonable limits—to remind the Committee that its privilege to the use of the word ''Olympic'' is not absolute, and is secondary, for example, to the rights of geographic reference on the part of Washington state businesses. The provision that I have included in the Amateur Sports Act serves as a statutory admonition that the USOC must share the word ''Olympic''.

The need for a reasonable restriction on the USOC, which I believe this bill contains, is widely recognized in Washington state. On September 25, The News Tribune wrote that we have ''produced a reasonable and narrow compromise that will protect Washington businesses and protect the USOC's legitimate concerns.'' The Seattle Times concurred when it urged the Olympic Committee members to ''get over their Olympic-sized egos and support this modest and sensible tweaking of the law.''

Having just chastised the USOC for its past abuses, let me say that I am heartened by the assurances and commitments the Committee made during discussion of my amendment, assurances that the past abuses were anomalous and inconsistent with USOC policy, and commitments that the USOC will not abuse its privileges with respect to the use of the word ''Olympic.'' I trust the Committee will live up to its promise to rein in its organizing committees and other affiliated entities' overzealous pursuit of businesses using the name ''Olympic,'' even when there is no likelihood that such use will be confused with the Olympic games or activities of the USOC.

The language in the omnibus bill is narrower than what I had included in the bill that passed the Commerce Committee. The ''safe harbor'' created for Washington as a subterfuge to obtain immunity from USOC action, then quickly extend their business, goods, or services to other locations, such as Salt Lake City, the site of the next Winter Olympics, with the intent of capitalizing on the games.

To allay the USOC's concerns, the final language creates a clear safe harbor for businesses using the word ''Olympic'' when they operate and conduct most of their sales and marketing west of the Cascades. This safe harbor will remove the threat that hangs over the thousands of businesses in Western Washington—the threat that the USOC will deprive them of the ability to continue to use the word ''Olympic.''

Henceforth, Olympic Cleaners in Kirkland, Olympic Auto Sales in Kent, Olympic Golf Repair in Port Angeles, Olympic Ambulance in Sequim, as well as thousands of other businesses in Washington, can rest assured that a creature of the Federal government, the USOC, won't come knocking to collect, not only their taxes, but their name.

Finally, I point out that the language is silent about what happens if the business using the word ''Olympic'' substantially extends its operations, sales, and marketing beyond Western Washington. It certainly is not the intent of Congress to place Washington businesses using the word ''Olympic,'' in a geographical cage that constrains their growth so long as the operations of these Washington businesses do not wrongfully capitalize on the work of the USOC by confusing people into making an association with the Olympic games, and not the Olympic Mountain range, Olympic Peninsula, or other geographic features. No court should infer that, in creating the safe harbor for businesses in Western Washington, Congress intended in any way to affect the current law with respect to businesses operating outside of this area. We did not.

THE NORTH PACIFIC POLLOCK FISHERY

Mr. GORTON. Mr. President, after threatening to filibuster an appropriations measure over provisions relating to S. 1221, the American Fisheries Act, I now want to emphasize my support of the substitute version of the American Fisheries Act that has been included in this mammoth bill.

It has been an unexpected privilege and a pleasure to work with, as opposed to against, the Senior Senator from Alaska and his staff on legislation affecting the allocation and management of pollock in the North Pacific. Together, we have crafted a substitute measure designed to achieve the goals of his original legislation, which aimed to Americanize and decapitalize the North Pacific pollock fishery. Not only is this substitute, in my view, fundamentally more fair than the original S. 1221, it is considerably better in that it allows for new methods of managing the largest fishery in the United States, methods that promise to end the race for fish and to ensure that the decapitalization is permanent.

Americanization, decapitalization, and rationalization. These were the three things most participants in the pollock fishery said that they wanted from legislation when I convened an industry meeting in Seattle during the August recess. To these goals, I added my own: no summary elimination of foreign-controlled vessels without compensation, and the protection of independent pollock harvesters and processors.

Due largely to the perseverance of Senator STEVENS, the consensus that eluded the pollock industry in August was reached a month later. The basic elements of the September accord called for increasing the U.S. ownership and control requirements for all fishing vessels; arranging for the buy out by the onshore sector of a significant portion of the pollock catch and of nine Norwegian-controlled vessels; limiting the amount of fish that any one company can harvest and process; and laying the groundwork for a new management scheme to eliminate the race for fish by limiting participants in the pollock fishery and permitting these participants to decide in advance how to divide the resource.

Translating the agreement-in-concept into legislation in the few weeks that remained in this Congress was a tremendous challenge. A myriad of questions arose, and we attempted to answer them as best we could with input from the participants in the pollock and other fisheries, state officials, North Pacific Fishery Management Council members, the National Marine Fisheries Service, the U.S. Coast Guard, the Maritime Administration, Community Development Quota representatives, and others.

As we progressed through various drafts of the legislation, we tried to anticipate and address issues like how to require and enforce greater U.S. ownership and control of fishing vessels without disrupting existing and future financing arrangements; the effects of the transfer of fish from the offshore sector on the product mix; ensuring that catcher vessels have sufficient input into the formation and conduct of fishery cooperatives; preventing the vessels being removed from the U.S. Exclusive Economic Zone from contributing to overcapacity in other fisheries; and many, many others.

One of the most difficult issues is how to protect participants in other fisheries from possible adverse effects of ending the race for pollock. Crabbers and other groundfish fishers are concerned that pollock fishers who participate in cooperatives will spend more time and effort in other, already overcapitalized, fisheries. After considering various legislative proposals to limit effort in other fisheries, I believe we made the right choice to leave this task to the regional councils. Because the measures to end the race for fish in the onshore and mothership sectors will not go into effect until 2000, we delegated to the North Pacific and the Pacific Fishery Management Councils the responsibility of ensuring that the new cooperative management regime provided for in this legislation does not decapitalize and rationalize the pollock fishery at the cost of further overcapitalizing other fisheries. For the offshore sector, which we anticipate will form cooperatives and stop racing for fish in 1999, before the regional management councils have an opportunity to impose restrictions on these vessels, we prescribed limits on participation in other fisheries.

One of the questions for which we could not get a definitive answer is whether we have appropriated enough

money to cover the cost of the loan that will be used for the vessel buy out. A critical element of this bill is the purchase of nine pollock catcher processor vessels and their pollock fishing history. In exchange for being allocated significantly more fish, and permanently eliminating these nine vessels from all U.S. fisheries, the onshore pollock sector has agreed to pay $75 million to the vessel owners. This $75 million will be advanced as a loan by the federal government, and repaid to the federal government by the onshore sector over a long period of time. This $75 million payment from the onshore sector to the offshore sector is supplemented in this bill by a $20 million federal appropriation, so that the total payment to the offshore catcher processors is $95 million. Of this amount, $90 million is to be paid to the owners of the nine catcher processors being excluded. The additional $5 million is to be paid to the catcher processors whose allocation is reduced even though their vessels are not removed.

Because the nine vessels are to be excluded and the allocation to catcher processors to be reduced on January 1, 1999, we have provided that the buy out payments to the owners and the catcher processors be made before the end of 1998. To do this, we have appropriated the $20 million federal share of the buy out, and an additional $750,000 for the cost of the direct loan of $75 million. The $750,000 is one percent of the loan amount, and is the amount that both NMFS and the Office of Management and Budget believe is enough to cover the cost of the $75 million loan. Because this type loan is unprecedented, however, OMB has been unable to say with absolute certainty that $750,000 is the correct amount.

If OMB determines that $750,000 is insufficient to cover the cost of the $75 million loan, we expect OMB and NMFS to inform us of this immediately, and to immediately secure sufficient funds to cover the cost of a direct loan of $75 million so that $90 million can be paid to the owners of the nine excluded vessels before the end of this year. These funds can be secured by reprogramming part of the $6 million provided to NMFS to carry out the provisions of this Act.

Another question that has arisen recently involves the interpertation of the section that allows offshore catcher vessels to catch 8.5 percent of the pollock allocation reserved for these catcher boats and specified catcher processors. We included this section to ensure that the catcher boats delivering to catcher processors were not squeezed out of the sector. We anticipated that the fish caught by these catcher vessels would be delivered for processing only to the twenty catcher processors named in the bill as eligible to participate in the offshore pollock fishery and eligible to participate in a cooperative, and we did not intend for these catcher vessels to be able to increase the pollock processing capacity by delivering their catch to catcher processors other than the 20 listed vessels.

But just as we did not have a definitive answer to the question of the cost of the loan guarantee, we did not have answers to many of the questions that arose from this proposal that so dramatically changes the operation of the largest fishery in the United States: we will rely heavily on the expertise of the North Pacific Fishery Management Council and of NMFS, to flesh out many of the details of this truly revolutionary legislation. Even without all of the answers, however, I believe that we made the right decision to seize a unique opportunity to Americanize, decapitalize, and rationalize this fishery, and, at long last, bring peace to an industry whose internecine battles over the years have led to the inefficient operation of the pollock fishery and caused a rift between Washington and Alaska.

THE MONTANA FISH AND WILDLIFE CONSERVATION ACT OF 1998

Mr. BAUCUS. Mr. President, I rise to speak in support of Title X of the FY 1999 Omnibus Appropriations bill. I drafted this provision as a substitute amendment to S.1913, the Montana Fish and Wildlife Conservation Act of 1998, a bill that I sponsored and Senator BURNS from Montana co-sponsored. I am pleased that this provision has been included in the Omnibus Appropriations bill.

As amended, the Montana Fish and Wildlife Conservation Act of 1998 (now Title X) creates an exciting opportunity to exchange lands at Canyon Ferry Reservoir for other lands in Montana to conserve fish and wildlife, enhance public hunting, fishing, and recreational opportunities, and improve public access to public lands.

Mr. President, I would like to take a moment to thank my good friends and colleagues from Montana—Senator BURNS and Congressman HILL. Together, we have worked long hours on this project. We certainly would not be where we are today if not for this team effort. I would also like to take a moment to thank their staffs as well—especially Leo Giacometto, Ric Molen and Ryan THOMAS from Senator BURNS' office and Mark Baker and Kiel Weaver from Congressman HILL's office. These staff members have logged long hours on this project and this accomplishment belongs as much to them as to anyone.

LEGISLATIVE HISTORY

So that there will be no question as to the origins of this provision, let me provide a brief history of this legislation. On April 2, 1998, I introduced S.1913, the Montana Fish and Wildlife Conservation Act of 1998. Senator BURNS joined me as a co-sponsor of this legislation. This bill, like Title X of the Omnibus Appropriations bill, proposed to exchange 265 cabin sites at Canyon Ferry Reservoir for public lands elsewhere in the state. Like the adopted provision, S.1913 proposed to accomplish this exchange through the use of a permanent trust that would hold the proceeds of the cabin site sale pending acquisition of other lands.

While S.1913 actually created two trust funds (one for local land acquisitions and one for land acquisitions elsewhere in Montana), Title X to the Omnibus bill simplifies this arrangement by creating one land acquisition trust, but then specifying that no more than 50% of the proceeds from this trust can be used outside of the local area in any given year. This trust arrangement is set forth in Section 1007 of Title X.

On May 3, 1998, I held an Environment and Public Works Committee field hearing on S.1913 in Helena, Montana. That hearing was attended by over 200 cabin owners and sportsmen—all of whom overwhelmingly supported the Montana Fish and Wildlife Conservation Act of 1998.

On May 22, 1998, Congressman HILL from Montana introduced a related piece of legislation in the House. Like S.1913, H.R.3963 established a mechanism for the sale of the 265 cabin sites. Unlike S.1913, H.R.3963 made no provision for the use of the proceeds from this sale.

Between May and August of 1998, these two bills received substantial attention in Montana. In early August, the Montana delegation sat down to craft a consensus bill. By mid-August, we had reached agreement in principle on a substitute amendment for S.1913.

Under our agreement, we would use the land trust idea encompassed in S.1913, but would add two provisions to provide additional benefits to Broadwater County, Montana. These provisions (sections 1005 and 1008 of Title X) are designed to improve recreational opportunities in Broadwater County, without diverting any of the cabin site revenues away from the land acquisition trust.

After drafting legislative language to encompass this agreement in principle, I then sat down with Administration officials to gain their support for this legislation. In response to concerns voiced by Department of Interior officials and others in the Administration, I made a number of substantive changes to this bill. One of these changes was to add section 1009 of Title X to clarify the Bureau of Reclamation's authority to improve public recreation and to conserve wildlife at Canyon Ferry Reservoir.

On October 10, 1998 after I revised the legislation to respond to the concerns of the Administration, Jack Lew, Director of the White House Office of Management and Budget, wrote to express the Administration's support for this new bill. Mr. Lew wrote: ''as amended, S.1913 creates a unique opportunity to exchange lands at Canyon Ferry Reservoir for other lands in the state to conserve fish and wildlife, enhance public hunting, fishing, and recreational opportunities, and improve public access to public lands.'' Mr. President, I ask that the entire text of

the OMB letter of support be printed in the CONGRESSIONAL RECORD following this statement.

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

(See Exhibit 1.)

Mr. BAUCUS. Soon after reaching an agreement with the Administration on final bill language for a substitute to S. 1913, the House and Senate Appropriations Committees agreed to include this Act as Title X of the FY1999 Omnibus Appropriations bill.

PROVISIONS OF TITLE X

Title X grew out of a decision made by the Bureau of Reclamation in the late 1950s, soon after Canyon Ferry dam was completed near Helena, Montana. It was at that time that the Bureau decided to lease 265 cabin sites on the north end of Canyon Ferry Reservoir to local families. As conditions of their leases, the Bureau required the families to build and maintain cabins on these sites. In the intervening forty years, many of these cabins have been expanded into full fledged houses, with yards, driveways and carports.

Mr. President, there are many things that the federal government does well. I'm not sure that being a landlord is one of them. This intensive concentration of cabin sites has led to on-going conflicts between the Bureau and the cabin owners. Most recently, these conflicts escalated when the Bureau moved to raise rental rates for these cabin sites by as much as 300 percent. From the cabin owner's perspectives, this is an inequitable situation. They have invested time and money in these sites and yet live with the constant worry that their leases will be terminated and their cabin sites taken away.

To resolve these conflicts, Title X directs the Secretary of Interior to sell the 265 cabin sites at Canyon Ferry Reservoir in Montana in one transaction to the highest bidder. The minimum bid for this transaction is set at the fair market value of all 265 sites, appraised individually using standard federal appraisal procedures.

I would like to note that, while the appraisal process for rental rates has been a point of contention between the cabin owners and the Bureau of Reclamation in the past, recently these two parties reached an accord for completing a joint appraisal for the purposes of setting rental rates. I applaud this cooperation and expect that the Bureau will continue this agreement and this cooperation in appraising these sites for the purposes of this bill.

Title X contains protections to ensure that each cabin owner has an option to purchase their site from the highest bidder and to protect the existing lease rights of each cabin owner. At the same time, Title X contains ample protections to ensure that the public gets a fair deal too.

Mr. President, the Bureau of Reclamation, the U.S. Forest Service, and other federal agencies lease cabin sites across the West. I would not want to suggest that the solution contained in Title X is appropriate in each case where cabin owners have conflicts with the federal government. To the contrary, I believe that the Canyon Ferry situation is unique in a number of respects.

First, these are not isolated cabin sites around which the public and wildlife can move freely. At Canyon Ferry Reservoir, there are 265 cabin sites arranged in tight clusters. This is one of the largest concentrations of residences on public lands in the West. This tight pattern of development dramatically lowers the value of these sites to the general public and largely precludes the use of the area by wildlife.

Second, in this case, the lessees were required to make improvements to their property and, in many cases, have gone so far as to build houses on these sites. Many of these houses have now become primary residences for local families. Though the federal government leases cabin sites across the West, few are occupied by families living year-round in their homes.

Even under circumstances such as these, however, I do not believe that the federal government should support the sale of cabin sites. Mr. President, as a matter of principle, I am opposed to the sale of public lands. I believe that the sale of public lands threatens to establish a dangerous precedent that, over time, could erode our public lands heritage.

Let me be clear though—I am not opposed to trading lands with low value to the general public for lands that are important for fish and wildlife conservation or that are more accessible to the public.

Across the West, the federal government has recognized that land exchanges can be useful tools to allow the government to trade out of lands that have low values for the general public in order to acquire lands that are more accessible to the public or that are more important for fish and wildlife. Just this year, Congress approved S.1719 to complete the Gallatin Land Exchange near Bozeman. I was the primary sponsor of that bill in the Senate and can say first hand that legislation produced enormous benefits for the public.

I modeled the Montana Fish and Wildlife Conservation Act after this and other land exchanges to ensure that our public land heritage is not eroded and to try to improve our public lands holdings.

Because public lands are important to Montanans and, indeed, to all Americans. We take our children fishing on these lands. They're where we hunt, hike, and recreate. We take our families out for picnics at the local Forest Service campground and we ride our horses in the high alpine meadows. These lands serve as the backdrop for our homes and our communities. Mr. President, you might say that I'm a big fan of public lands, and that's why this bill is so important to me.

Title X directs the Secretary of Interior to sell 265 cabin sites at Canyon Ferry Reservoir in Montana. The proceeds from this sale are then placed into a new trust called ''The Montana Fish and Wildlife Conservation Trust.''

Title X very explicitly specifies the appropriate uses of the proceeds from this trust. The Act states that the trust is to ''provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to: a) restore and conserve fisheries habitat, including riparian habitat; b) restore and conserve wildlife habitat; c) enhance public hunting, fishing, and recreational opportunities; and d) improve public access to public lands.''

Mr. President, these provisions are very important. First, this trust is dedicated to acquisition of land and interests in land in Montana. The land-for-land concept is a critical component of this Act. To reiterate, this bill has been modeled after other land exchanges. By using the intermediary step of a trust, however, we have created a new breed of land exchange known as a ''bifurcated'' or ''land-trust'' exchange. It is my belief that this tool, by functioning as a permanent source of funding, and by allowing for more targeted acquisitions over time, may have benefits not found in the traditional land exchange process.

In commenting on an early debate over this provision, the Helena Independent Record noted on July 9, 1998:

> The problem here is the ideological question of public land, of which they aren't making any more. While some feel that almost any public land would be more productive in private hands, backers of Baucus' bill believe that a public land value should be sold off only in return for an equal land value—not marinas or roads or other things that can, after all, be funded in other ways. Just as it is perfectly all right for the Forest Service to trade off checkerboard landholdings, as long as the public receives equal value, so selling the Canyon Ferry lease sites is acceptable—so long as equal value land values are received in return. . . . That's why it is the Senate version that should be enacted into law.

Mr. President, I agree with this statement and endorse very strongly the land-for-land concept embodied in this bill.

Second, it is important to note that the bill language makes clear that this land trust is dedicated to the conservation and public enjoyment of Montana's fish and wildlife resources. The title of S.1913 and the purposes of Title X emphasize that this trust is established to promote fish and wildlife conservation. Similarly, the title of the trust itself and the requirement in section 1007(c)(3)(B) that the members of the citizen advisory board have a dedicated commitment to fish and wildlife conservation should leave no question of the goals that we are trying to achieve with this legislation.

While the trust may be used to acquire land and interests in land to improve recreation and access to public lands, it is the intent of this bill that the recreation and access provisions should be complimentary to, not contradictory with, the purposes of fish and wildlife conservation. Toward that end, it is my expectation that the members of the citizen advisory board will recommend, and members of the federal-state agency board will request, expenditures from this trust that meet both the letter and spirit of this important bill. It is also the intent of this legislation that, under section 1007(e), lands acquired under this substitute amendment will be managed in a manner that promotes fish and wildlife conservation.

Because the land-for-land and conservation principles are so critical, this bill establishes a management framework for this trust designed to ensure that the trust is as effective as possible. The permanent trust is to be managed by a trust manager who is responsible for investing the corpus of the trust and for ensuring that the proceeds from the trust are dispersed only in accordance with the terms of the bill.

Requests for dispersal must be submitted by a five-member board consisting of representatives of the U.S. Forest Service, Bureau of Land Management, Bureau of Reclamation, U.S. Fish and Wildlife Service, and the Montana Department of Fish, Wildlife, and Parks. The federal-state agency board is directed to ensure that any requests for dispersal will meet the purposes of the trust. The bill intends that the federal-state agency board will base its decisions regarding expenditures from this trust on the trust plan compiled by a four-member citizen advisory board.

The citizen advisory board contains a representative from a Montana organization representing agricultural landowners, a Montana organization representing hunters, a Montana organization representing fishermen, and a Montana nonprofit land trust or environmental organization. Each of these members is to have a demonstrated commitment to improving public access to public lands and to fish and wildlife conservation.

Mr. President, this citizen advisory board is integral to the proper functioning of this legislation. It is my intent that this group of citizens should play a very active role in identifying critical properties for acquisition and in setting the priorities of this trust.

Because this trust is intended to supplement, not supplant, regular Land and Water Conservation Fund expenditures, I do not expect that the federal agencies' priority list for LWCF expenditures will govern the expenditures from this trust.

Rather, it is the intent of this legislation that the citizen advisory board will take an independent look at land acquisition needs in Montana as they craft and update the trust plan. The legislation intends that the federal-state agency board will rely heavily on direction set by the citizen group and the trust plan and contemplates that the two boards will work hand-in-hand together. The legislation also requires the trust manager to consult with the citizen advisory board to ensure that expenditures from the trust are strictly limited to those authorized by this legislation.

Mr. President, I would also like to take a moment to comment on a number of additional provisions in this substitute amendment. First, section 1004(b)(3)(C) provides that restrictive covenants will be placed on deeds to the cabin sites at the time of transfer to ensure the maintenance of both existing and adequate public access to and along the shoreline of Canyon Ferry Reservoir and to restrict future uses of these properties to the ''type and intensity of uses in existence on the date of enactment of this Act, as limited by the prohibitions contained in the annual operating plan of the Bureau of Reclamation for the Reservoir in effect on October 1, 1998.''

These provisions were very important to the Administration to ensure that the privatization of these sites does not diminish the values of adjacent public lands. It is important that lands acquired in an exchange have public values at least equal to those traded away. It is equally important to ensure that the lands that are traded out of the federal estate do not compromise the values of adjacent public or private lands. I would also like to note the distinction between protecting ''existing'' and ensuring ''adequate'' access. These provisions were added to ensure that the public continues to have access to and along the shore of Canyon Ferry Reservoir and, where access is not currently adequate, to ensure that such access is improved.

I want to note, however, that the historical use restriction is not intended to require cabin owners to remove or modify structures that were in existence on the date of this Act. As noted in the letter from OMB that I mentioned earlier, this provision ensures that subsequent owners of these properties will ''preserve the existing character of this area.'' Quite simply, it is the intent of this bill that this area should not be turned into another Lake Tahoe Resort. However, it is also the intent of this bill that the historical use provision should not unduly burden the cabin owners by requiring new limitations on the type and intensity of uses that are allowed on these sites.

Second, section 1004(d)(2)(A) specifies that, if the Canyon Ferry Recreation Association (''CFRA'') submits the highest bid for these cabin sites, the Secretary will sell a cabin site to a lessee, if he receives a purchase request from that lessee. Section 1004(d)(2)(D) provides that CFRA and the lessees must purchase at least 75 percent of the properties by August 1 of the year following the first sale of a cabin site. Section 1004(d)(2)(E) provides that the Secretary shall continue to lease the cabin sites to those lessees who have not purchased their sites by that time.

While this is a complex arrangement, the intent should be clear. It is the intent of this bill that every cabin owner have an opportunity to purchase their lot so long as they are leasing from the Bureau of Reclamation. This bill requires that, if CFRA submits the highest bid for these sites, CFRA will purchase at least 75% of the lots by August 1 of the year following the first sale of a cabin site. CFRA's obligation to purchase 75% of the lots is, of course, offset by sites that have been purchased by individual cabin owners by that time.

It is further the intent of this bill that the Bureau should continue to lease to remaining cabin owners who have not purchased by that time, and that the Bureau should continue to provide each lessee with the option of purchasing their site so long as they continue to lease their site from the Bureau. It is important to note that, once CFRA submits the highest bid, section 1004(d)(2)(g) requires that all rental revenue from the cabin sites will be distributed to the Fish and Wildlife Conservation Trust and to reduce the Pick-Sloan debt as set forth in section 1006 of the bill.

CONCLUSION

Mr. President, this bill is the result of exhaustive negotiations between local citizens, wildlife groups, county commissioners, the cabin owners, the Montana delegation and, most recently, the Administration. I am pleased that we have been able to reach a broad consensus on this matter and I support its inclusion as Title X of the Omnibus Appropriations bill.

Again, in closing, I would like to thank Senator BURNS and Congressman HILL for their work on this important effort—I look forward to working together on many more such collaborative efforts.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, October 10, 1998.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: I am writing to express the Administration's support for your substitute amendment to S. 1913, the Montana Fish and Wildlife Conservation Act. As amended, S. 1913 creates a unique opportunity to exchange lands at Canyon Ferry Reservoir for other lands in the state to conserve fish and wildlife, enhance public hunting, fishing, and recreational opportunities, and improve public access to public lands.

We would like to commend you for your leadership in vigorously pursuing legislation that promotes conservation and for the cooperation shown by you and your staff in working with us to address our concerns.

As you know, S. 1913 directs the Secretary of the Interior to sell the affected Federal properties around Canyon Ferry Reservoir as a single block. Although, as a general rule, we believe the Secretary of the Interior

should have administrative discretion as to how such a transaction should occur, we believe that the procedures contained in the Baucus substitute amendment are acceptable given the unique situation of this property.

The substitute also includes a number of provisions that we feel are necessary for the Administration's support of this bill. First, it is our understanding that you have made the changes that we have requested to the bill's land appraisal procedures to ensure a fair and accurate appraisal of market value of the properties to be sold and to avoid creating opportunities for needless litigation. Second, the bill ensures that subsequent owners of these properties will maintain public access to Canyon Ferry Reservoir and preserve the existing character of this area. And, third, this substitute amendment preserves the ability of the Secretary to manage Canyon Ferry Reservoir for its Congressionally authorized purposes.

We believe that this legislation, with the changes noted above, will enhance public recreation and fish and wildlife opportunities for this area while protecting Federal interests in the operation and management of the Canyon Ferry Project.

Sincerely,

JACOB J. LEW,
Director.

Mr. FEINGOLD. Mr. President, I want to state my opposition to the omnibus appropriations bill, and outline some of my concerns with both the content of that measure, and with the process in which it was crafted.

First and foremost, Mr. President, this omnibus appropriations bill shreds the tough spending limits established by last year's bipartisan budget agreement. It does so through the expedient of declaring nearly 21 billion dollars in spending as a budget emergency, thus exempting that spending from the spending caps and budget discipline that was so central to last year's budget agreement.

Mr. President, as I have noted on the floor previously, the emergency exception to our budget rules was intended to allow Congress to act quickly to provide funding to assist victims of natural disasters or to help ensure an adequate and timely response to an international crisis. Sadly, that exception has now become the rule, and we now see emergency declarations attached to appropriations provisions not because those provisions were unexpected or urgent, but because doing so permitted Congress to duck its budget responsibilities.

That is a gross abuse of the emergency provisions incorporated in our budget rules, and it must stop.

Mr. President, of particular concern is the use of the emergency exception to add funds to an already bloated defense budget.

Mr. President, the only emergency in our defense readiness is the sorry state of posturing by Congress for more defense spending. Some Members insist Congress must throw more money into the Department of Defense, even when our military leaders say they don't need it.

But, Mr. President, the Pentagon does not need more money. The money going to the Pentagon needs to be spent more wisely. Unfortunately, too often Congress does everything in its power to make sure that does not happen.

Congress continues to spend billions of dollars on pork-barrel projects that the Pentagon does not need and does not want. Congress bars the closing of unnecessary bases, and refuses to address accounting fraud so destructive that Senator GRASSLEY recently stated that, ''If we put adequate controls on the money we have, there should be no need for more defense spending.''

Last week, Mr. President, the Washington Post reported there were at least 30 items that appeared for the first time in the fine print of the $250 billion defense spending bill. These included: $250,000 to study the potential uses of a caffeinated gum, reportedly slipped into the defense spending bill by a Member of the other body on behalf of the firm in his Illinois district that makes this gum; $2.4 million for a device called the American Underpressure System, reportedly another late addition to the defense spending bill pushed by the San Diego businessman who holds the patent on the device; and, $5 million to fund the purchase of electronic locks manufactured by a Kentucky firm, reportedly added by a member of that State's delegation to the defense spending bill during conference deliberations. The Washington Post story reported the Kentucky lockmaker was able to obtain still another earmark in the Energy Department spending bill for $2 million.

Mr. President, this practice is an outrage, but one many in both chambers choose to ignore, or, worse, perpetuate. If we cut the pork and allowed the Pentagon to close inefficient bases, we would not even need to discuss so-called emergency spending for defense.

Among the most abusive uses of the emergency exception in the defense budget is the proposed $1.9 billion in funding for U.S. troops in Bosnia.

Mr. President, I have always had serious questions about U.S. involvement in this mission. I was the only Democrat to vote against the deployment of U.S. troops back in 1995, in large part because I did not believe that the United States would be able to complete the mission in the time projected and for the price tag that was originally estimated. Unfortunately, I have been proven right, and I take no pleasure in it.

U.S. forces have now been in Bosnia for almost three years, much longer than the original one-year mandate, and I do not think anyone has a good idea how many more years we will be there. More significantly, the cost of our involvement in Bosnia has increased dramatically—easily more than quadrupling the original $2 billion estimate to more than $8 billion, not including the $1.9 billion now proposed to be added by the omnibus appropriations measure.

But beyond the strict policy concerns of our mission in Bosnia, Mr. President, is the troubling budget maneuvering that has been done to add still more funding to this questionable mission.

Mr. President, the funding for the Bosnia mission will not be forced to comply with our budget caps. The additional $1.9 billion provided in this bill is designated as emergency funding.

Mr. President, our Bosnia mission can hardly be characterized as an unexpected event, something deserving of emergency funding. Far from it. Our mission in Bosnia is a substantial, long-term commitment. It is something the United States has, for better or worse, decided to do for the long-term.

Webster's New Collegiate Dictionary defines the word ''emergency'' as follows: ''an unforeseen combination of circumstances or the resulting state that calls for immediate action.''

This definition clearly does not apply to the Bosnia mission. The Bosnia mission is an emergency only in the strange language of appropriations bills. The Bosnia ''emergency'' is a legislative fiction.

U.S. troops have been on the ground in Bosnia for nearly three years. In December of 1997 the President announced that he would forego imposing a deadline altogether, and opt instead for a policy of benchmarks whose definitions remain open to interpretation.

Given that policy, Mr. President, how can Congress and the President possibly argue to the American people that the additional costs for the Bosnia mission constitute an emergency? On the contrary, it has been clear for quite a while now that the cost of this mission would again rise substantially. Some would say it has been clear from the start.

Ironically, Congressional appropriators and our military leaders have planned for many months on obtaining these so-called emergency funds.

Mr. President, the mission in Bosnia does not represent an emergency that legitimately calls for us to depart from our established, vital budget rules.

Mr. President, as I noted, the Bosnia funding is only one example. What compounds this dangerous trend away from budget discipline is the reported evolution of much of the emergency spending. In particular, it has been reported that the negotiations surrounding the omnibus appropriations bill at one point centered on the insistence of some that for every emergency dollar added for one group of programs, another had to be added for a different set of programs. Essentially, the budget negotiation became a bidding contest in which deficit-financed spending was the currency.

This brings me to my second serious objection to the measure before us, namely the process by which it was crafted.

Mr. President, continuing resolutions and omnibus appropriations are fast becoming the standard process in Congress. Deliberate, careful, and open

consideration of agency budgets, with the full participation of everyone's elected representatives in a public forum has been shunted aside, and instead we have a process of back room deals by a powerful few.

Mr. President, that is not democracy in action, and it rewards those well-funded, well-connected special interests that already distort the policy agenda of the Federal government.

We should not be surprised, then, when dozens of special interest earmarks and policy riders find their way into the omnibus measure with little or no public debate.

The normal appropriations process is already tainted to a great extent with this kind of influence. The closed door dealings in which this legislation was developed only make that problem worse.

A telling example of the policy that can result from this flawed process is the language delaying implementation of the most modest of reforms in our nation's dairy policy.

Language included in this omnibus measure extends USDA's rulemaking period on Federal Milk Marketing Order reform for six months. This extension will delay implementation of the new federal milk pricing system to October of 1999, instead of the original date of April, 1999 set in the Farm Bill. Mr. President, officials at USDA have assured me that they did not request this extension nor do they need it.

Mr. President, this dairy provision was included solely to intimidate and bully USDA and Secretary Glickman into an anti-Wisconsin dairy pricing reform. Instead of allowing USDA to do its job, some Members of Congress want to do it for them, and do it to benefit their own producers at the expense of dairy farmers in the Upper Midwest.

It is ridiculous that today, in times of advanced technologies, Wisconsin producers receive a Class I differential of $1.20 per hundredweight, while producers in Kansas City, Missouri receive $1.92, and our friends in Miami get $4.18. Dairy farmers in Miami make nearly $3.00 more per hundredweight than farmers in the Upper Midwest for the same product. The current system just does not make sense in today's world.

The extension of USDA's rulemaking had another intent as well. Extending the rulemaking period automatically extends the life of the Northeast Interstate Dairy Compact. The 1996 Farm Bill requires a sunset of the Compact when the new federal pricing system is implemented. At the rate Congress is going, tacking this issue onto appropriations bills, there is no telling when implementation will now occur.

The effects of the Compact on consumers within the region and producers outside of it are indisputable. Dairy compacts are harmful, unnecessary and a burden to this country's taxpayers.

The worst part of this entire sixty-five-year dairy fiasco is its effect on the producers in the Upper Midwest. The six-month extension puts an additional 900 Wisconsin producers at risk. Wisconsin loses approximately three dairy farmers a day. Producers cannot stand six more days of the current program, let alone six more months.

Mr. President, not only is legislating dairy policy on this bill inappropriate, it is bad precedent, it circumvents the appropriate committees, the Agriculture and Judiciary Committees, and circumvents USDA's authority. We ought to give USDA the opportunity to do the right thing for today's national dairy industry and put an end to the unfair Eau Claire system now, not six months from now.

Mr. President, once again I urge my colleagues to take a second look at this antiquated and harmful policy. Stand up for equity, fairness, and for what is best for America's dairy industry, our consumers and our taxpayers.

Mr. President, the omnibus measure is also the vehicle for a number of anti-environment riders. Here again, by burying these provisions in this mammoth appropriations bill, those promoting these anti-environmental provisions are able to avoid full and open debate of their proposals. They succeed in avoiding a separate vote on matters that are quite controversial.

That is the nature of this kind of bill and this kind of process, Mr. President. An unamendable, ''must pass'' bill inevitably will be a magnet for proposals that cannot stand up to the scrutiny of open debate.

Mr. President, some may blame the nature of the annual budget process for putting Congress in the position of having to pass an omnibus appropriations bill. Some might suggest the inability to pass all the appropriations bills in a timely manner is inherent in the annual budget process, and in this regard I am certainly willing to give the biennial budget process a try. I was pleased to cosponsor the measure offered by the Senator from New Mexico (Mr. DOMENICI) to move to a biennial process.

But the annual budget process is not the central problem. The central problem is the corrupting influences that permeate the entire policymaking environment, from our system of campaign finance, to the problems of revolving door hiring practices, to the inadequate lobbying and gift restrictions on Members.

And the incentives in such a corrupting environment all encourage just this kind of process—back room negotiations, among only a few powerful people, with little or no outside input or public scrutiny.

Mr. President, as this bill so graphically demonstrates, until the Senate and the other body do something to address that underlying problem, Congress cannot be trusted even to abide by the spending limits to which it agreed only a year ago.

Mr. KENNEDY. Mr. President, I support this legislation because it will help millions of families across the country. One of the most important provisions offers urgently needed aid to communities to improve their public schools. Democrats worked effectively to provide funds for more teachers and smaller classes, and these efforts were successful. The result is that assistance is on the way for this important aspect of school reform.

The bill provides $1.2 billion on the current fiscal year for this vital initiative to reduce class sizes in the nation's public schools. This is the first installment in an ongoing effort to help schools throughout the nation hire 100,000 more teachers, so that all students will get the attention they need in school to succeed in life.

The bill also contains a major literacy initiative that will provide $260 million to help children learn to read well by the end of the third grade. It's a strong response to President Clinton's America Reads Challenge, and it makes a significant additional victory for education reform.

In addition, the legislation includes $871 million for summer jobs for disadvantaged youth. For many of these youth, summer jobs are their first opportunity to work and their first step in learning the work ethic.

This legislation also fully funds the Youth Opportunity grants established by the Workforce Investment Act signed into law in August. This innovative new program will offer education and career opportunities for teenagers most at risk and living in the poorest communities.

The bill also contains the level of funding recommended by President Clinton for Head Start and after-school programs. These programs are vital to children across the country, and these funds are urgently needed.

Another key part of this bill provides much needed assistance for home health care for senior citizens and persons with disabilities under Medicare. In 1997 in Massachusetts, approximately 150 home health agencies cared for 125,000 Medicare beneficiaries. But the Balanced Budget Act of 1997 contained provisions that led to an unintended 15 percent reduction in reimbursement for the state's home health providers. That reduction translated into a $110 million cut this year for providers across the state. Ten home health agencies in Massachusetts have closed their doors since January 1—in part due to the unanticipated consequences of the 1997 Act.

Last February, Congressman JIM MCGOVERN of Massachusetts and I introduced legislation to remedy this problem, and I am pleased that this bill achieves our goal. No senior citizens or persons with disabilities who depend on Medicare for home health services should have to worry that health care won't be available when they need it most.

By delaying a forthcoming reduction in payments and by improving the formula for reimbursements, this bill enables home health agencies to provide

the medical care needed for patients to stay in their own homes and communities, and out of hospitals and nursing homes. All of us who are concerned about this issue welcome the progress we have made, and we will continue to do all we can to see that home health care is widely available to those who need it in our states.

The legislation also makes important changes in the immigration laws. It temporarily increases the number of visas available to skilled foreign workers to meet the demands of colleges, and the high-tech industry. It also contains a substantial investment to improve job training and educational opportunities for U.S. workers and students.

In addition, the bill ensures that the 49,000 Haitians who came to this country fleeing persecution will have the opportunity to apply for asylum to remain in the United States permanently. The bill also provides $171 million for naturalization activities. Without this support, the processing of naturalization applications would fall even farther behind.

The legislation also takes a major step toward more effective enforcement of the civil rights laws. For the first time in many years, the Equal Employment Opportunity Commission will receive the level of funds needed to fulfill its important mission.

In many other respects, this legislation also deserves support. I commend the bipartisan support it has received, and I urge the Senate to approve it.

However, in passing this important bill, this Congress leaves behind a number of key initiatives of great importance to working families. I know that my Democratic colleagues join me in pledging to renew our efforts early next year on behalf of the unfinished business of the current Congress.

First, we must act on the Patient's Bill of Rights, which will end the abuses of HMOs and guarantee the 161 million Americans who use HMOs that medical decisions affecting their families will be made by doctors and patients, not insurance company accountants.

Democrats will also give high priority to campaign finance reform next year. The greatest gift that Congress can give the American people is clean elections. This reform is important for our democracy, and it deserves to be enacted at the beginning of 1999, so that it will clearly apply to elections in the year 2000.

Our nations school buildings are crumbling, and many areas of the country do not have enough classrooms. The 105th Congress did not act on our proposal to give localities tax breaks for bond initiatives to pay for school construction. And we will pursue this proposal again next year.

We must also act in 1999 to reduce youth smoking and save millions of children from a lifetime of addiction and early death. Three thousand more children a day start smoking, and a thousand of them will die prematurely from tobacco-induced disease.

We need strong legislation to prevent tobacco companies from targeting young Americans. It is the only effective way to stop this tragedy.

Another top priority should be action on the minimum wage. At this time of extraordinary national prosperity, millions of minimum wage earners are working full time but still living in poverty. We proposed a modest increase of $1.00 an hour over two years to give a much-needed raise to 12 million Americans. The fight for this proposal—so important to working families across America—must be and will be renewed next year.

We had landmark, bi-partisan legislation to assist Americans with disabilities to obtain skills and go to work, rather than sit a home on public assistance. Disabled Americans want the dignity of work. But this bill, too, was not considered by this Congress.

The tragic deaths of James Byrd, an African American killed because of his race, and Matthew Shepard, a gay University of Wyoming student killed because of his sexual orientation, brought the issue of hate crimes to the forefront this year. Their deaths and other senseless acts of hate resulting in death or serious injury should be a catalyst for passage of the Hate Crimes Prevention Act. This bill ranks high among the unfinished business of the 105th Congress, and we will pursue it again next year.

All of us regret that this massive legislation is being considered under end-of-session restrictions that make sensible debate impossible. But overall, I believe the bill deserves to pass, and I look forward to renewing the debate next year about the nation's basic priorities.

MEDICARE HOME HEALTH CARE PROVISION

Mr. GRASSLEY. Mr. President, I wish to comment on the Medicare home health care provisions in the omnibus bill the Senate passed today over my dissenting vote. Along with a bipartisan group of my colleagues, I've worked since early this year to persuade the Senate to revisit home care. Now that we've done so, I have mixed feelings about the product. First, let me tell you what is good about it.

It is good that we listened to our constituents and took action on this issue. The Aging Committee held a hearing on this issue in March, and it was clear then that we had a major problem on our hands. From then to now, believe me, every step has been a struggle. As late as last Thursday, this issue was declared dead here in the Senate. But last minute calls from a number of us to the leadership led to the issue being taken up, and that's a good thing.

It is good that the bill delays the 15-percent across-the-board cut in home health payments that was slated to occur in October 1999 if HCFA missed the deadline for the new Prospective Payment System (PPS). It's HCFA's fault, not that of home health providers, that PPS won't be ready in time, so the cut would have been unfair. The bill delays the cut until October 2000, and PPS should be ready by then, meaning that the across-the-board cut will never occur. We will all need to monitor the development of PPS closely, but this delay buys us some important time.

The final good thing I can say about the bill is that it does provide modest relief to low-cost agencies, such as most Iowa providers. It moves them about one-third of the way up to the national median. That's all.

So what's wrong with it? In short, its increase in payment to low-cost agencies is far too small. The negotiators accepted the House view that all high-cost agencies should be held harmless. This tied up money which should have been used to provide more equity to low-cost agencies, the ''good guys'' who provide home care without unnecessarily burdening Medicare.

Because the bill provides so little relief to low-cost agencies, those agencies are still at risk of closure. If an agency can't stay in business for at least another year, the delay of the 15-percent cut scheduled for October 1999 will not help it. For me, saving those agencies—in order to preserve access to home care for those they serve—was the foremost reason to act this year. We did not do what we needed to do.

In a sense, the new law makes that bad situation even worse. If existing agencies must close their doors, especially in lightly populated rural areas, we could hope that new agencies would open to take on their patients. But the Senate receded to a House provision putting such new agencies at a marked payment disadvantage, making it unlikely that any will open. This should be a matter of grave concern to all of us.

The bill that I drafted with Senators BREAUX, BAUCUS, and ROCKEFELLER, S. 2323, was a hard-fought compromise among differently situated States. As evidence that it was a good compromise, it garnered a majority of Finance Committee members as cosponsors, including those from States with relatively high- and low-cost agencies. It also greatly simplified the Interim Payment System, providing for more uniform payment for agencies, and eliminating the distinction between old and new agencies. If anything, the provision in the omnibus bill makes our earlier bill look even more attractive, because today's bill further complicates home health payment, and makes payment even less uniform.

Finally, Mr. President, I cannot resist pointing out the flaws in the process by which this provision was developed. The process was profoundly undemocratic. After many months' discussion, a strong majority of the Finance Committee agreed on an approach to this issue. We were then told that, out of the whole Senate, only a single Senator from a State with a tremendous number of agencies, many

with very high costs, would object to this consensus approach. Unlike other Senators from similar States, who recognized the need for some high-cost agencies to accept some reductions as part of a compromise, this Senator had not cosponsored any of the reasonable reform bills or otherwise contributed to the discussions during the course of the year. While that Senator cited fiscal responsibility as the reason for his objection, it was no secret that his constituents included so many of the highest-cost home health agencies—the defense of which would seem to be the antithesis of fiscal responsibility.

Precious days passed while no action was taken, and no explanation was offered. We Finance Committee members were essentially strung along, learning to our dismay each day that the bill had not been brought to the floor, where the objecting Senator would have to defend his position, if he dared. In the end, a deal was cut in a rushed, secret negotiation at the eleventh hour. Members who had labored for months to find a workable compromise were not invited to participate, while the alleged objector was. That Senator's State's high-cost agencies were thus given virtual veto power. It should be no wonder that we ended up with what we did.

Here in Congress, a good process does not guarantee a good result, but a bad process almost certainly guarantees a bad result. It pains me that the seniors and disabled who rely on the Medicare home health benefit will have to bear the consequences of the Senate's bad process.

While noting the errors of the Senate on this issue, I would be remiss not to note the responsibility of the home health industry and the Clinton Administration. The industry spent months pursuing unrealistic approaches and failing to unite behind reasonable reform. We'll never know how differently this debate might have turned out if they had been willing to make some hard choices earlier in the process, rather than do the impossible by attempting to please all their constituents. Similarly, we will never know how the issue would have played out if the Administration had participated as full partners. Throughout the year, they were willing only to provide technical assistance, never offering reform ideas of their own, no matter how much Members of Congress from both parties pleaded. I will never understand why they decided that home health care was Congress' problem and not theirs. I hope that the industry, the Administration, and Congress will all approach this issue differently next year.

The prospect of dealing with this issue again in 1999 is not one that many of us relish. But I'm afraid that we will have to do it. In fact, what I really fear is that our best, most efficient home health providers will not be around when we return to this issue. We simply did not do enough for them this year. Let's not kid ourselves that we did.

Mr. MOYNIHAN. Mr. President, the budget agreement reached on Thursday evening was celebrated by both parties in competing press conferences, and there may well be much to commend in the Omnibus Consolidated and Emergency Supplemental Appropriations Act. The trouble is, how would anyone know?

According to a wire service report on Friday, the bill was ''expected to be more than one foot thick.'' In fact, it is closer to two feet thick, and contains some 4,000 pages. Will any Senator or Representative know what's in that monster bill when it is passed shortly—as is now inevitable?

Of course not. Yet in recent years we are given to feel that even to ask such a question is to reveal an embarrassing naivete.

Last year, as Ranking Member of the Committee on Finance, I was Floor Manager during Senate consideration of an 820-page bill somewhat unconvincingly entitled the ''Taxpayer Relief Act of 1997.'' While it was pending before the Senate, the only copy of the bill present on the Senate floor was on the Democratic Manager's desk, having been obtained by our resourceful and learned Minority Chief Tax Counsel, Mr. Nick Giordano. A second copy provided to the majority Manager, Chairman ROTH, had been lent to the Budget Committee so that it could be inspected for violations of assorted rules.

During that debate, many Senators, having no other way to find out, came round to ask if I could ascertain whether this or that provision was in the bill. Sensing my opportunity, I would reply, ''I could, but what will you pay me?''

This year's legislation is no different; we continue to discover items that mysteriously found their way into—or out of—the text long after the agreement was announced. And so as we reflect on the successes and failures of the 105th Congress now ending, I rise simply to sound a note of caution, if not alarm. Having served here for 22 years now—I looked up at the beginning of this Congress to find myself 9th in seniority among Senate Democrats, and 14th in the Senate overall—I am troubled that of late we are getting ominously careless with our procedures. This growing neglect of our rules is becoming increasingly hurtful to the institution of the United States Congress. Surely it is not how business ought to be conducted in the national legislature of the United States of America.

In an article yesterday headlined ''Spending Deal Represents Failure, Not Success,'' the distinguished Vice President and columnist for the Associated Press, Walter Mears, recalls that

> A decade ago, President Reagan confronted Congress with the ''43 pounds of paper'' it passed in 1987 to finance the government in one catchall bill after failing to enact separate appropriations. Reagan told the Democratic Congress not to pass any more ''behemoths'' like that, and said he wouldn't sign one again.
>
> ''The budget process has broken down,'' said Reagan, ''It needs a drastic overhaul.''

I do not assert that in some earlier, happier time, every Member of Congress read every word of every bill. That has never been possible. But only quite recently have the negotiations over, and contents of, our mammoth annual budget measures been kept secret from nearly everyone save the two Republican Leaders and the White House Chief of Staff. We are beginning to resemble a kind of bastard parliamentary system. Members loudly debate issues on the floor, but the real decisions are made in a closed room by three or four people.

This deterioration in the process has taken place over about the last half decade, or so I would reason. Such things would never have been attempted, or tolerated, when I arrived here. That was a time when the rules and prerogatives of this institution were still revered. One shudders to think how the current state of affairs would be viewed by men of the House such as Thomas P. O'Neill or Dan Rostenkowski, or by giants of the Senate like Howard H. Baker or Russell B. Long.

But the reality is that in recent years, a growing lack of respect for the institution of the Congress has begun to manifest itself in any number of damaging ways. To cite just a few other examples:

The budget process has broken down. This year, for the first time in 24 years, Congress failed to pass a budget resolution. And we have had great difficulty passing reconciliation bills. In fact, the last proper, complete reconciliation bill we were able to enact was the Omnibus Budget Reconciliation Act of 1993. Since Thursday night we have been busily congratulating ourselves over completion of the latest budget—as if the simple act of keeping the government open is a unique achievement.

Committees of Conference have been reduced to formalities. Meetings of conference committees are now rarely convened, and when they are, it is frequently done only to announce an outcome that has been predetermined—generally without participation by the minority. The appointment of conferees has sometimes been corrupted, with conference membership or party ratios within conferences subject to manipulation for partisan advantage.

Even the ''scope of the conference'' requirement of Rule 28 of the Standing Rules of the Senate, which prohibited consideration by conference committees of provisions not in the bill passed by either house, has been overturned. On October 3, 1996, the Senate casually did away with that rule by a vote of 56–39.

Likewise we no longer prohibit legislating on appropriations bills. This was a most useful rule that had existed since the adoption of the Standing

Rules of the Senate in 1884; it helped prevent all manner of mischief in the annual appropriations process.

Yet on March 16, 1995, during consideration of a bill to provide emergency supplemental appropriations for the Department of Defense, we voted, in effect, to repeal the rule. An amendment was offered to impose a moratorium on listing of new endangered species by the Fish and Wildlife Service. The Chair promptly sustained a point of order that the amendment violated the rule against legislation on appropriations bills.

Without any thought given to the consequences, the ruling of the Chair was immediately appealed and then overturned, by a vote of 57–42. A new precedent had been set, and the rule was wiped out. Not one word was said on the floor, before or after the vote, about the terrible precedent we were creating.

I voted against both of those changes to our rules. I found it astonishing on both occasions that the Senate would so blithely disregard its own procedures.

The gigantic new Omnibus Appropriations Act, filled with hundreds of non-appropriations provisions never considered separately in either house, is the latest example of why those two little-noticed votes were big mistakes. Indeed, the distinction between appropriations measures and legislative changes is now so blurred that on Sunday, the House Appropriations Committee posted a press release on its website announcing ''Significant Legislative Provisions in Appropriations Bills.''

Parliamentary irregularities are creeping their way into acceptance. For instance, in several cases the Senate has, by unanimous consent, ''deemed'' bills passed before they are received from the House of Representatives. In 1997, a provision giving a $50 billion tax credit to the tobacco industry was slipped into a conference report after the conference committee had completed its work. (That provision was repealed soon after its existence was discovered.)

In another case in 1998, the routine right to modify a floor amendment was used for a different purpose altogether: to undo a compromise agreement on assistance to tobacco farmers, and to defeat without a vote a bipartisan measure reported by the Committee on Finance. Also of concern is the now common practice of filing ''motions to bring to a close debate'' under Rule 22—cloture motions—on bills before a single word of debate has been uttered on the floor.

This nonchalance about our procedures reached an extreme in 1995 and 1996 when we took up the Balanced Budget Amendment to the Constitution and the Line Item Veto Act. These measures, which were part of Item One in the ''Contract with America,'' proposed to dramatically alter the procedures by which Congress, under Article I, Sections 7 and 8, of the Constitution, exercises the power of the purse.

We had the good sense to defeat the Balanced Budget Amendment, albeit narrowly. However, the Line Item Veto Act passed the Senate by a vote of 69–31 on March 27, 1996—notwithstanding the pleas of this Senator and others that the bill was unconstitutional. Ultimately, of course, that Act was declared unconstitutional by the Supreme Court on June 25, 1998 in the case of Clinton v. City of New York. But not before the Senator from New York, along with our revered leader Senator BYRD and Senators LEVIN and Hatfield, had to take the extraordinary step of becoming plaintiffs in one lawsuit, which was vacated due to lack of standing, and amici curiae in a second suit. Happily, as I say, we finally prevailed.

In his powerful concurring opinion concluding that the Line Item Veto Act violated the separation of powers, Justice Anthony M. Kennedy wrote that ''Liberty is always at stake when one or more of the branches seek to transgress the separation of powers.'' Justice Kennedy went on to say this: ''The citizen has a vital interest in the regularity of the exercise of governmental power.''

I repeat: ''The citizen has a vital interest in the regularity of the exercise of governmental power.''

Surely this admonition applies to the regularity of the exercise of power in the United States Senate. We are not talking about mere technicalities or niceties to be observed or ignored at whim. The rules and procedures of the United States Congress matter. Just as the finely-wrought proscriptions in our Constitution matter. Article I, Section 5 of the Constitution provides that ''Each House may determine the Rules of its Proceedings. . .'' Those rules are meant to be, and must be, obeyed.

The Supreme Court held that the Line Item Veto Act threatened liberty by distorting the carefully designed constitutional procedure for passage and enactment of laws. In quite the same way, our failure to observe the rules and procedures of this institution threaten, ultimately, democratic representation of the American people in the Congress. Disregarding our rules erodes the power conferred by citizens on each elected Member of the Congress, undermining the integrity of our legislative process. And it therefore weakens the Congress as an institution and contributes to cynicism and a loss of confidence among the citizenry about our competence to govern. If we do not take better care, I fear we will find this institution in decline.

I know that my friend Senator ROBERT C. BYRD, whose knowledge of the Senate rules is unsurpassed, shares these concerns. Yesterday on the floor, he said this of the pending Omnibus Appropriations Act:

I will never vote for another such monstrosity for as long as I am privileged to hold this office. I hope that I never see another such monstrosity. I will never again support such a convolution of the legislative process as the one we have seen this year, and I hope that others will agree that this process is just as silly and as sad and as ridiculous and as disgraceful as I think it is. I hope they will join me in an effort to prevent it in the future.

That is not the kind of statement that ROBERT C. BYRD, the Ranking Member of the Committee on Appropriations and our sometime President pro tempore, would make lightly. I hope Senators were listening.

Perhaps the Committee on Rules and Administration, on which Senator BYRD and I serve together, will see fit to take up this issue. And I do hope all Senators will recognize the importance of regular order and take greater care with the rules of this institution when the 106th Congress convenes in January of 1999.

In the meantime, on this measure, my vote is No.

Mr. LOTT. I believe the yeas and nays have been ordered, Mr. President. We are ready to proceed to the vote.

The PRESIDING OFFICER (Mr. INHOFE). The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced, yeas 65, nays 29, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—65

Abraham	Domenici	Lieberman
Akaka	Dorgan	Lott
Bennett	Durbin	Mack
Biden	Faircloth	McConnell
Bingaman	Feinstein	Mikulski
Bond	Ford	Moseley-Braun
Boxer	Frist	Murray
Breaux	Gorton	Reed
Brownback	Graham	Robb
Bryan	Gregg	Roberts
Burns	Harkin	Rockefeller
Campbell	Hatch	Roth
Chafee	Hutchinson	Sarbanes
Cleland	Hutchison	Shelby
Cochran	Jeffords	Smith (OR)
Conrad	Johnson	Stevens
Coverdell	Kempthorne	Thompson
Craig	Kennedy	Thurmond
D'Amato	Kerry	Torricelli
Daschle	Landrieu	Warner
DeWine	Lautenberg	Wyden
Dodd	Leahy	

NAYS—29

Allard	Feingold	Kohl
Ashcroft	Gramm	Kyl
Baucus	Grams	Levin
Byrd	Grassley	Lugar
Coats	Hagel	McCain
Collins	Inhofe	Moynihan
Enzi	Kerrey	Nickles

Reid	Smith (NH)	Thomas
Santorum	Snowe	Wellstone
Sessions	Specter	

NOT VOTING—6

Bumpers	Helms	Inouye
Glenn	Hollings	Murkowski

The conference report was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

HOUSE CONCURRENT RESOLUTION 353—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. LOTT. Mr. President, I ask the Chair to lay before the Senate House Concurrent Resolution 353, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 353) providing for the sine die adjournment of the Second Session of the One Hundred Fifth Congress.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, which is nondebatable.

The concurrent resolution (H. Con. Res. 353) was agreed to as follows:

H. CON. RES. 353

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, October 21, 1998, or Thursday, October 22, 1998, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, or until a time designated pursuant to section 3 of this resolution; and that when the Senate adjourns on Wednesday, October 21, 1998, or Thursday, October 22, 1998, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 3. During any adjournment of the House pursuant to this concurrent resolution, the Speaker, acting after consultation with the Minority Leader, may notify the Members of the House to reassemble whenever, in his opinion, the public interest shall warrant it. After reassembling pursuant to this section, when the House adjourns on any day on a motion offered pursuant to this section by its Majority Leader or his designee, the House shall again stand adjourned pursuant to the first section of this concurrent resolution.

Several Senators addressed the Chair.

Mr. LOTT. Mr. President, will the Senator withhold one second, for one more unanimous consent request?

HOUSE JOINT RESOLUTION 138—PROVIDING FOR THE CONVENING OF THE FIRST SESSION OF THE 106TH CONGRESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to House Joint Resolution 138 received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 138) appointing the day for the convening of the First Session of the One Hundred Sixth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 138) was considered read the third time and passed, as follows:

H.J. RES. 138

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Sixth Congress shall begin at noon on Wednesday, January 6, 1999.

Mr. LOTT. Mr. President, I can announce now that there will be no further votes in the 105th Congress. This resolution just adopted provides for the convening of the 106th Congress at 12 noon on January 6, 1999.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

COMMENDATION OF THE MAJORITY LEADER

Mr. THURMOND. Mr. President, we have accomplished a lot this year. I am very proud of what has been done here in the Senate. No one is due more credit for this than our able leader, Senator LOTT. I just want to commend him for his outstanding accomplishments and the fine cooperation he has given to all of us and for everything he has done for this country.

THANKING SENATOR THURMOND

Mr. LOTT. Mr. President, just briefly, I thank the distinguished President pro tempore for the job he has done and for his friendship and help. Truly, one of the most important accomplishments of this Congress was our armed services authorization bill, the Strom Thurmond authorization bill. It was a tough process, a long process, but we got it done largely because of his tenacity and the respect and reverence we all have for Senator Thurmond. And that led, of course, to the appropriations bill and its defense and military construction portions, and it contributed to the additional funds that were added in this omnibus appropriations bill for defense and intelligence for the future of our country.

Thank you, Senator THURMOND, for all you did.

Mr. THURMOND. I thank the able leader.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

Mr. SPECTER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Pennsylvania is recognized for 15 minutes.

Mr. SPECTER. I thank the Chair.

OMNIBUS APPROPRIATIONS CONFERENCE REPORT

Mr. SPECTER. Mr. President, I had hoped to make this floor statement in advance of the vote, but I could not be here yesterday. So, I have asked for time this morning to state my reasons for voting against the omnibus appropriations bill. And I do so with a conflict of my own views because I think this bill provides very substantial funding for very many important projects. However, I decided to vote against the bill because of the change from regular order and existing procedures in the appropriations process. The Constitution gives the authority to 100 Members of the Senate and 435 Members of the House, but as the appropriations process went forward the final decisions were made by only four Members.

Mr. ASHCROFT. Mr. President, the Senate is not in order. I would like to hear the Senator, if we could have order in the Senate.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SPECTER. I thank my colleague, Senator ASHCROFT, for asking for order. I would like to hear myself and am having some difficulty.

As I was saying, Mr. President, notwithstanding the fact that this bill contains funding for many, many vital programs for America, I decided on balance to vote against it because it made such drastic changes in existing procedure where the Constitution gives to the Congress the authority to appropriate, 435 Members in the House and 100 Members in the Senate, and as the arrangements were finally worked out, critical decisions were made excluding the chairman of the Appropriations Committee, excluding the chairmen of the relevant subcommittees such as myself, with only the Speaker, the leader of the Democrats in the House, our distinguished majority leader, and the minority leader in the Senate. I think that is very, very problemsome.

During the time allotted to me this morning I intend to summarize my views.

Starting first with the accomplishments, it does provide for $83.3 billion

in discretionary spending for the subcommittee which I chair which has jurisdiction over three major departments—the Department of Education, the Department of Health and Human Services, and the Department of Labor. There were some very important appropriations items included, such as a $2 billion increase for the National Institutes of Health. My distinguished colleague, Senator HARKIN, the ranking member, and I worked very closely on this bill with our staffs, and I learned a long time ago that if you want to get something done in the Congress and the Senate, you have to cross party lines to do it.

We added $2 billion to $13.6 billion in the National Institutes of Health budget, with a vision for the 21st century of conquering cancer, which takes the lives of 44,000 women a year from breast cancer, and the lives of many men from prostate cancer, conquering Alzheimer's, arthritis and Parkinson's. We appropriated $1.1 billion for LIHEAP, which is home energy assistance going principally to the poor, significantly to elderly people who only have the option of either heating or eating. We have $2.5 billion for substance abuse. We have appropriated $156 million to protect women from violence, an increase of $21 million over last year.

For education programs, the total budget is $32.9 billion, an increase of $3.5 billion over last year. For student aid, so vital for American competitiveness worldwide and to improve quality of life for individuals, we have $9.3 billion, an increase of $369 million over last year, and for Head Start a total of $4.6 billion, an increase of $313 million. We have increased special education program funding to $5.1 billion, and we have put up some $1.2 billion for classroom size reduction, an objective I agree with, although we didn't get there the right way procedurally.

The bill further provides for $1.7 billion for job training, very important; $1.3 billion for the Job Corps, $1.4 billion for dislocated workers, $564 million for mine safety, $871 million for summer youth jobs, a program which the House of Representatives had tried to totally eliminate.

And why in the face of these important expenditures did I vote against the bill? Because this bill never came to the Senate floor from the subcommittee on Labor, Health, Human Services and Education Appropriations. My staff and I worked on an expedited basis in August so that on our second day back, September 1, the subcommittee could vote it out. The full committee voted it out on September 3, but it never came up on the Senate floor. And similarly, the House of Representatives took only a small portion of the Labor, Health and Human Services and Education bill up.

As a result, when we did not follow the regular order and the customary process, we did not follow the constitutional direction and the direction which the Senate has adhered to for so many years. This was, I think, to the detriment of the bill, although so many important items have been funded, there could have been, I think, a better allocation had the people really responsible been involved throughout.

When the chairman of the subcommittee is excluded from the final negotiations and the chairman of the full appropriations committee is excluded, you lose the impact and the experience of the people who have worked most closely on the bill.

I would illustrate this point by noting what happened on October 9. The President had a press conference in the Rose Garden severely criticizing the Republican Congress on education, and I was asked to provide part of the response in a subsequent press conference. I did so by pointing out that the House-Senate conference had provided more money on education than the President had requested in his February budget. We had $31.8 billion, contrasted with the President's request for $31.2 billion, meaning that we put up $600 million more than the President asked for. Not unexpectedly, with the President's bully pulpit, his message carried the day and the congressional response was lost in the shuffle.

Then we had the issue of reducing average classroom size by hiring teachers, where the President had requested $1.2 billion. What was not ever understood publicly was that those funds were to be provided by moneys from the tobacco settlement. However, there never was a tobacco settlement. The President and his administration never provided any alternative source of funding. Senator HARKIN, my distinguished ranking member, and I and the rest of our subcommittee understood that, so we found $300 million for title I, which could have been used for reducing classroom size for next year. This was substantially more than that which could have been expended, and that, too, was lost in the shuffle.

What I think is especially disconcerting is the fact that when we Republicans control both the Senate and the House, we should have been able to come to terms in September before the fiscal year ended and submitted bills to the White House, to the President, in regular order where the President would either have to sign them or veto them. Had we done this in regular order, I think, with the public debate focusing on the education issue, for example, the chances were excellent the President would not veto it when it would be understood the Congress had provided more than he had requested and that we had complied with much of his initiative classroom size reduction.

But, when those bills were not presented until October and the only other option is closing up the Government, then the leverage is all with the President, and the Congress cannot really perform its appropriation and legislative function.

The bills were not presented in September because of very strong disagreements on so many substantive matters which should have been handled by the authorizing committees. There was endless debate on whether there would be student testing, endless debate on organ transplants, endless debate on ergonomics—and we Republicans should have concluded those matters. We should have excluded the legislation, by and large, although realistically you can never exclude it all. And while we should not legislate on appropriations bills, some of that is necessarily done, but should not be done in a quantity to defeat our process of presenting these bills.

In the conference we had on October 9, with representatives from the Office of Management and Budget, I raised the question about a disagreement in priorities of some $330 million out of the $32 billion bill—a relatively small part, about one percent. Was the President going to veto our bill over that amount of money, because of those differences in priorities? The Office of Management and Budget representatives said they did not know. I replied if they did not know, they ought not to be in the process, that we ought to be legislating.

It would have been a very different outcome had we presented these bills to the President in September and had we focused on precisely what the Congress had done and where the areas of disagreement were, and on the fact that at that stage we had provided more money than the President had requested by $600 million, and that we had taken care of the issue on reduction of classroom size.

We live in a society with many, many different views. What has been the strength of the institutions of the American Government has been the procedures which we have established for more than 200 years. Those procedures are for the subcommittee to report, the full committee to report, the matter to come to the floor of the Senate, for 100 Senators to be able to debate and offer amendments—and that was not done. And that was not done in the House. We did not have an actual House-Senate conference on our bill, although we met informally. The product is not what should have been done. We do not live in an oligarchy under the constitutional doctrine which governs our society.

But, where you have these decisions made on $500 billion in expenditures and many, many substantive issues at the very last minute, it is an oligarchy. Mr. President, 535 of us have surrendered our power and our authority to a group of 4, and that is not the way the American Government is supposed to run. That has given disproportionate power, enormously disproportionate power, to the President because of the experience we had at the end of 1995 and the beginning of 1996 when the Government was closed and the Congress got the blame.

What I have seen in the time I have been here is when there is blame, you

can usually divide it 50/50, right down the middle, half to the Congress and half to the administration. If there is partisan blame, you can divide it right down the middle, half to the Republicans and half to the Democrats. I think the failure to follow regular order and our established procedures, the constitutional mandate and what we have developed as a matter of congressional practice, is very, very, very serious. I think it warrants a very, very strong protest vote, which I have cast.

I was interested to hear the comments of the distinguished senior Senator from West Virginia, Senator BYRD, who yesterday made a speech and, in more graphic terms than mine, called this a Frankenstein bill—it did not have a mother and a father—and said he was going to vote for it. A few minutes ago Senator BYRD approached me on the floor and said he decided to vote against it. I asked him why. He said he had persuaded himself. He went home last night, thought about his speech, decided he was right. He decided he was right on the Frankenstein part; he was wrong on the part to vote for the bill.

I said I was delighted to hear that because of the high regard I have for Senator BYRD, also the high regard I have for Senator SANTORUM, who is presiding at the moment, my colleague from Pennsylvania, who also voted against this bill. We discussed it and he did not quite have the oligarchy in mind, but he agreed with the principle that the 535 of us ought not to cede our power to 4.

It is not easy to get to the U.S. Senate. It is not easy to stay here. There is a lot of hard work that goes into what we have done. For example, Senator SANTORUM and I represent 12 million people and, in chairing the subcommittee on this $83 billion bill, I have given very, very serious consideration to all of these issues and I join him in thinking they should have been legislated in regular order.

I, again, compliment my distinguished colleague, Senator HARKIN, for his diligence and his work and his outstanding staff, Marsha Simon and Ellen Murray. My staff is second to none, with Mark Laisch, Jennifer Stiefel, Jack Chow, Mary Dietrich, Jim Sourwine. Most of all, ''Senator'' Bettilou Taylor—she is technically the clerk—who commented to me that she did not like my negative vote. Here she comes back on the floor. She heard her name mentioned. She thought it might have been interpreted that I was not for education and health care. I think my record is strong enough that my negative vote as a protest to the procedure will be understood in light of all the work we did on these education allocations and health care allocations. And Dan Renberg, who is my deputy chief of staff and legislative director, who is extraordinary in working with Bettilou in handling some 1,300 requests which come to our office, and about five times that many phone calls, and David Urban, my distinguished chief of staff, who also helps in making these legislative arrangements.

So, it is with mixed emotions that I vote no because procedures and format are still the most important; that we follow regular order because we don t know about the quality of the next oligarchy of four which may seek control of the appropriations process.

I now ask unanimous consent that my full statements on the Omnibus Appropriations bill be printed in the RECORD.

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

OMNIBUS APPROPRIATIONS BILL: PROBLEMS WITH THE PROCESS

Mr. SPECTER. Mr. President, I want to express my strong objections to the procedures which were followed on the omnibus appropriations bill, which contains the text of eight individual appropriations and authorizing provisions totaling nearly $500 billion in spending.

The importance of this legislation stems from our Constitution, which provides in Article I, section 9 that, ''no money shall be drawn from the Treasury, but in consequence of appropriations made by law.''

The regular order is for the 435 House members and the 100 Senators to consider the appropriations bills in sequence with floor action, conference reconciliation and then final action by each body before presentation to the President. This process, too, stems from the Constitutional directive in Article I, section 7 that a bill which has passed the House and Senate shall be presented to the President, who may sign it into law, or veto the bill and return it accordingly to the Congress for their reconsideration.

This year, the final stages and key negotiations were carried on by only 4 elected members: the Majority Leader and Minority Leader in the Senate and the Speaker and Minority Leader of the Democrats in the House, with the participation of White House representatives.

I chair the Appropriations Subcommittee which has jurisdiction for the bill funding the Department of Labor, Department of Health and Human Services and the Department of Education. Our bill did not reach the Senate floor for consideration by the full Senate. And, except for a small portion, our bill did not receive consideration by the full House of Representatives. Thus, the Senate could never formally convene a full-fledged conference with the House on the Labor, HHS, Education bill. Recognizing that our bill would be wrapped into an omnibus spending bill, we held informal conferences involving the House and Senate Chairmen and ranking minority members, but we were not present when the final, key decisions were made.

In an early conference session on our bill, representatives of the Office of Management and Budget raised questions about approximately $330 million of the $32 billion designated for education programs in our bill. I asked these Administration officials whether that differnce, slightly more than 1 percent of the total, would produce a veto. The OMB representatives responded that they did not know the answer to my question. I then said if the difference would not produce a veto, then the matter really ought to be left to the House and Senate negotiators, who would reach their own conclusions as to the appropriate figures to be presented in the bill to the President.

With the Republicans in control of both the House and Senate, it is my strongly held view that we had a responsibility to conclude the appropriations bills in September before the end of the fiscal year for presentation to the President. That agreement was not reached because of many pending military ancillary issues such as school testing, organ transplants, ergonomics, etc. Had we finished Congressional action on the appropriations bill on Labor, Health and Human Services and Education, in September, for example, we could have then presented it to the President for his signature or veto with the issues crystallized. It is entirely possible that the President would not have vetoed the bill.

However, when the bills were not ready for final consideration until October, the White House emerged with the most leverage because a failure to agree meant the government would shut down.

On Friday, October 9, the President held an afternoon news conference in the Rose Garden criticizing the Republican Congress on education funding. I was asked to give a part of the Republican reply in a Capitol press conference, which I did, pointing out that the House-Senate subcommittee conferees had approved $31.8 billion for Fiscal Year 1999 discretionary education spending, which was $600 million over the President's budget request of $31.2 billion.

As expected with the force of the bully pulpit, the President carried the day in the media arena with no Congressional reply receiving any significant attention.

On the subject of adding teachers to reduce classroom size, earlier this year the President proposed paying for that $1.2 billion with proceeds from the tobacco settlement. Of course, there was no tobacco settlement legislation enacted and the Administration had no fallback proposal to cover the attendant shortfall in funding.

Notwithstanding the absence of a tobacco settlement, my ranking member, Senator HARKIN, and I had worked through the figures and allocated $300 million in additional federal funds for title one which could be used for school districts to hire new teachers and reduce the average number of children assigned to each classroom teacher. We were advised the budgetary outlays

would be $50 million in the first year, which was more than enough for the first year's funding and could be afforded within the existing Subcommittee allocation.

Again, all of that was lost in the last minute shuffle with the President criticizing the Congress without a factual foundation.

Had these issues on education, for example, been handled in a timely fashion in September with presentment of a Labor, Health and Human Services, and Education appropriations bill to the President, he would have had to articulate his views in a public forum to justify a veto. The result likely would have been entirely different.

It is my hope that we will not repeat this year's process. I firmly believe that if the people of America are given the opportunity to understand precisely what is happening, they will demand that we follow regular order in the appropriations process as set forth in the Constitution and the long-established practices of congressional legislative action.

FISCAL YEAR 1999 LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT

Mr. President, this has been an unusual year for the Labor, Health and Human Services and Education Appropriations Subcommittee. While both the House and Senate subcommittees reported bills out of the full committee, neither House ever had the opportunity to fully debate its merits. I believe that a bill which constitutes the single largest investment in improving the health, educational standing and economic well-being of our nation, and in one way or another, affects the lives of every man, woman and child in this country should have had the opportunity to be fully debated by all 100 Senators.

The subcommittee received over 1,300 requests from colleagues seeking more funding, report language and special earmarks. We weighed each of those requests very carefully, and wherever possible we accommodated our colleagues.

I want to extend my sincerest appreciation to Senator HARKIN and his staff, Marsha Simon and Ellen Murray for their role in this effort. I also want to extend my thanks to each of the members of the subcommittee for their cooperation.

OVERVIEW

The Labor-HHS-Education appropriations bill totals $291.9 billion of which $83.3 billion is for discretionary spending for FY'99 and an additional $6.1 billion has been provided for education programs for FY'2000. The discretionary spending represents an increase of $8.9 billion over the FY'98 approriations level.

HIGHLIGHTS

This bill provides $10.8 billion for the Department of Labor. It contains $871 million for summer youth, $1.7 billion to provide much-needed job training and work experience for youth, including $871 million for summer employment and training programs that offer work experience and academic enrichment to economically disadvantaged youth.

The bill also contains $1.3 billion for Job Corps training; $1.4 billion to assist dislocated workers; and $564 million for the Mine Safety and Occupational Safety and Health Administrations to help safeguard the health and safety of workers.

COMMUNITY HEALTH CENTERS

There is perhaps no better example of the direct effect this bill has on the needy than the community health centers program. This bill contains $925 million for this program, an increase of $117 million over the fiscal 1998 level. Funds are used to provide comprehensive primary care services to the medically indigent in underserved rural and urban areas, including the homeless, migrants and those living in public housing.

CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)

This bill includes $2.5 billion to maintain critical disease control and prevention activities carried out by the CDC. While we have made great strides in eradicating disease and illnesses that once plagued society, we cannot overlook some of the serious public health threats that remain, including hepatitis, tuberculosis, HIV infection, and lead poisoning.

NATIONAL INSTITUTES OF HEALTH

I thank all of my colleagues agree that few federal activities affect the lives of as many Americans as our investment in medical research. And few investments have such far-reaching effects on this nation's academic and economic standing throughout the world.

In my view, the National Institutes of Health represents the crown jewel of the Federal Government. For millions of cancer and heart disease survivors, it is the tap root of new drugs and surgical techniques that have added new years to life. It is in the frontline of new vaccines that save the lives of children who would have been considered hopeless cases only a few decades ago. And for the millions of baby boomers who are shouldering their way into old age, it offers the only source of hope against the devastating effects of Alzheimer's disease, arthritis, and Parkinson's.

Last year, many of my colleagues voted in favor of doubling research funding over the next 5 years. Earlier this year, I made a commitment to do all that I could to achieve that goal. The bill before the Senate includes $15.6 billion for NIH, an increase of $2 billion over last year's appropriation. That puts us squarely on the path to doubling NIH. More importantly, it signals a recognition that the progress we achieved in the past is not self-sustaining. Science is not an overnight proposition. What we do today will determine the life-saving breakthroughs of tomorrow.

This bill supports research across a wide array of diseases and afflictions, from breast and prostate cancer to diabetes and stroke.

HIV/AIDS

I want to note the fact that this legislation also includes nearly $3.8 billion for AIDS research, prevention and services. This includes $1.4 billion for Ryan White Programs that provide comprehensive care, early intervention and emergency services to those afflicted with AIDS. The bill also includes $657 million for AIDS prevention activities supported by CDC.

WOMEN'S HEALTH

Women's health continues to be a high priority under this bill. In addition to supporting expanded research on cancers affecting women, this bill contains another $159 million for breast and cervical cancer screening, as well as $15.5 million to advance the women's health initiative, including $3 million for a campaign to educate young adults about how to prevent osteoporosis.

BIOTERRORISM INITIATIVE

The 1995 nerve gas attack on the city of Tokyo killed 12 people and hospitalized thousands. This incident added a new and frightening word:—bioterrorism.

Earlier this year, the administration submitted an amended budget request for activities intended to counter bioterrorism. Should the President deem this an emergency, the bill would provide $154.7 million to combat this growing threat.

SUBSTANCE ABUSE

One of the most serious threats to the fabric of our society is substance abuse. The problem is no longer confined to inner cities, but has spread to every community in our country. To combat this threat, the bill contains $2.5 billion for substance abuse prevention and treatment, an increase of $213 million over the administration's budget request.

FAMILY PLANNING

For family planning activities, the bill recommends $215 million to support primary health care services at more than 4,000 clinics nationwide. This amount represents an increase of $12.1 million over the 1998 appropriation. Over 85 percent of family planning clients are women at or below 150 percent of the poverty level and these additional funds will help to ensure that these low-income women have access to quality health services.

ADOLESCENT FAMILY LIFE

The bill recommends $17.7 million, an increase of $13 million more than the amount recommended by the President for the only federal program focused directly on the issue of adolescent sexuality, pregnancy and parenting.

HEAD START

To enable all children to develop and function at their highest potential, the bill includes $4.6 billion for the Head Start Program, an increase of $313 million over last year's appropriation.

This brings us closer to the goal of enrolling one million children in Head Start by the year 2002.

VIOLENCE AGAINST WOMEN

The bill includes $156 million to support the programs authorized by the Violence Against Women Act. This is an increase of $21 million for programs to provide assistance to women who have been victims of abuse and to initiate and expand prevention programs to begin to reduce the number of women who are forced to confront the horrors of abuse. Included is: $88.8 million for battered women's shelters; $45 million for rape prevention; $15 million for runaway youth prevention; $6 million for domestic violence community demonstrations; and $1.2 million for the domestic violence hotline.

LIHEAP

The bill maintains the $1.1 billion appropriated for the upcoming winter's Low Income Home Energy Assistance Program (LIHEAP). In addition, the recommendation provides an advance appropriation of $1.1 billion for the 1999/2000 LIHEAP Winter Program. The bill also provides additional emergency appropriations of $300 million. LIHEAP is a key program for low income families in Pennsylvania and other cold weather States in the northeast. This funding supports grants to States to deliver critical assistance to low income households to help families meet higher energy costs.

AGING PROGRAMS

For programs serving the elderly, the bill before the Senate recommends $2.1 billion, an increase of $105 million over the fiscal year 1998 appropriation. Included is: $440.2 million for the Community Service Employment Program which will provide more part-time employment opportunities for the low-income elderly; $300.3 million more for supportive services and senior centers; $486.4 million more for congregate and home-delivered nutrition services; and $173.9 million more for the National Senior Volunteer Corps.

EDUCATION

To enhance this nation's investment in education, the bill before the Senate contains $32.9 billion in discretionary education funds for the 1999/2000 school year, an increase of $3.5 billion over last year's funding level. Specifically, the Goals 2000 Programs is funded at $491 million to promote education reform initiatives and $698.1 million for the technology programs.

EDUCATION REFORM

For programs to educate disadvantaged children, the bill recommends nearly $8.4 billion, $345 million more than the amount appropriated in fiscal year 1998. These funds will provide services to approximately 7 million school children. The bill also includes $135 million for the Even Start Program, an increase of $20 million over the administration's request to provide educational services to low-income children and their families.

IMPACT AID

For impact aid programs, the bill includes $864 million, an increase of $168 million over the budget request. Included in the recommendations is: $50 million for payments for children with disabilities; $704 million for basic support payments; and $28 million for payments for federal property.

BILINGUAL EDUCATION

The bill provides $380 million to assist in the education of immigrant and limited-english proficient students. This recommendation is an increase of $26 million over the 1998 appropriation and will provide instructional services to approximately 60,000 children. Within the funds provided, $50 million has been included for professional development to improve teacher training programs.

SPECIAL EDUCATION

One of the largest increases recommended in this bill is the $5.1 billion for the special education programs to help local education agencies meet the requirement that all children with disabilities have access to a free, appropriate public education, and all infants and toddlers with disabilities have access to early intervention services. The amount recommended will serve an estimated 4.95 million children at a cost of $662 per child.

CLASS SIZE INITIATIVE

The bill contains $1.2 billion to reduce class size in order to improve academic achievement and reduce discipline problems. These funds will be distributed among local educational agencies based on a formula that reflects both their relative number of children in low-income families and school enrollments. These funds would provide local school districts with the flexibility to hire more teachers and improve professional development for existing teachers.

STUDENT AID

For student aid programs, the bill provides $9.3 billion, an increase of $369 million over the 1998 appropriation. Pell Grants, the cornerstone of student financial aid, have been increased by $125 for a maximum grant of $3,125. The Supplemental Educational Opportunity Grants Program has also been increased to $619 million, the Work Study Program is funded at $870 million and the Perkins Loans Program is funded at $130 million.

READING EXCELLENCE

The bill also provides $260 million for a child literacy initiative. The committee has provided these funds on an advanced funded basis. This will give the authorizing committees adequate time to work out the specifics of this new program.

SCHOOL VIOLENCE

The bill provides $165 million for a new initiative to address the violent behavior of students. Included is $40 million to assist schools in identifying and addressing the mental health needs of children and preventing aggressive behaviors, $90 million to support activities that promote safe learning environments, and $35 million for competitive grants to recruit, train and employ school safety coordinators.

Finally, the bill provides $184 million for the National Labor Relations Board, $9.8 million over the FY '98 appropriation.

CONCLUSION

Again, I want to thank Senator HARKIN and all of the other members of the subcommittee for their help in crafting this bill.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 30 minutes.

Mr. GRAMS. Will the Senator from Missouri yield for an unanimous consent request?

Mr. ASHCROFT. I will be happy to yield to my colleague from Minnesota.

Mr. GRAMS. I ask unanimous consent that following the remarks of the Senator from Missouri I be recognized to speak for up to 15 minutes as in morning business.

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

Mr. GRAMS. I thank the Senator from Missouri.

Mr. ASHCROFT. Mr. President, We are very fortunate, Will Rogers once observed, that we've never gotten all the Government we've paid for. For most of this century, Mr. Rogers' words have stood the test of time. Unfortunately, I fear that with this omnibus appropriations bill, this 3,000-page, 40-pound, 2 foot high, $500 billion monster, we will be getting all the Government we have paid for and then some.

This omnibus legislation reflects the Federal budget process at its worst. This package was not the result of democratic votes, open discussion, and legislators reflecting the will of the people. With little debate and lots of backroom deals, 8 of the 13 annual appropriations bills have been tossed into one enormous heap of spending. This is wrong.

Who has read this pile of programs and pork? Not a single Senator has.

We didn't get a peek at a summary of this Government colossus until Monday afternoon, just 2 days ago. We won't see it in the CONGRESSIONAL RECORD until after the vote.

The truth of the matter is, no one knows what is in this colossal creation, and no one claims to be its father. It is said that victory has a thousand fathers, but defeat is an orphan. This forsaken monstrosity, which no one claims, nor has anyone read, deserved defeat today. We don't know much, but here is some of what we do know about this measure.

The Social Security trust fund has been raided for spending more on the programs and pork in this bill. Billions of dollars will be added to the national debt that our children will one day have to pay.

This legislation also breaks the much-heralded Balanced Budget Agreement.

And finally, we know that taxes, which are at record high levels, will

not be cut. Washington thinks it needs the people s money more than the people need it.

When I came to the Senate in 1995, at the same time that the new Republican majority assumed control of Congress, I hoped that Congress would downsize the Federal Government and return money and power to the American people. After 40 years of Democratic control of one or both Houses, it was finally time for Congress to uphold its responsibility, to minimize the Federal Government's intrusion into our citizens' lives and pocketbooks, to lower taxes and to reduce the size of Government.

Unfortunately, President Clinton remains the chief obstacle to lower taxes and smaller Government, despite his claim in the 1996 State of the Union Address that ''the era of big Government is over.'' That famous line from President Clinton is about as accurate as his pronouncement in January of 1998 that he wanted to save ''every penny of any surplus'' to preserve the Social Security system. Both are intentionally misleading and factually wrong.

But Congress also shares the blame. The 105th Congress has been either unable or unwilling to cut spending, has been, at best, reluctant to fight for tax cuts, and has now cut a budget deal that guarantees that Bill Clinton's vision of a costly and intrusive Federal Government survives for at least one more year.

The cost of the Federal Government is so staggering that numbers alone do not convey its enormity. We are spending more money today than our Founding Fathers ever thought possible. As Stephen Moore of the Cato Institute has indicated:

> Adjusted for inflation, the . . . [Federal] spending total of $7.5 trillion for 1998–2002 is more money than America spent to fight both world wars, the Civil War and the Revolutionary War [combined]. In fact, in today's dollars, it is more money than the U.S. Government spent on everything from 1787 to 1960.

In the fiscal year 1999 alone, the Federal Government will spend more than the entire Federal Government spent from our founding until 1920.

Without taking into account the $21 billion in new emergency spending contained in this omnibus legislation, the Congressional Budget Office estimates that Federal spending has increased $205 billion over the last 4 years. By comparison, in the previous 4 years, Federal spending increased only $192 billion.

Last year, the Congress passed, and the President signed, the Balanced Budget Act of 1997. There was much rejoicing, celebration and self-congratulations surrounding the passage of the bill, congratulations from the Halls of Congress and down Pennsylvania Avenue to the White House. The backers of the bill proclaimed fiscal discipline was being imposed on Washington.

Mr. President, I did not join in that celebration, nor share in Washington's enthusiasm. The 1997 budget deal spent too much, provided too little tax relief and was unenforceable. The bill contained no meaningful enforcement provisions, nothing to guarantee that future Congresses and administrations would limit spending or require the budget caps to be strictly enforced.

As a matter of fact, I proposed an amendment to impose the spending controls on the balanced budget agreement, and that amendment to that agreement was defeated. As a result, we have seen just today that the balanced budget agreement has been broken. Now promises made one year are ignored the next. Promises made last year for a balanced budget are ignored this year. This omnibus bill we have voted on today confirms my worst fears: It breaks the budget limits set just 1 year ago, spends the budget surpluses instead of saving it for Social Security, and keeps more money in Washington without returning it to the rightful owners—the families that work day and night to earn it.

Mr. President, Americans are working longer than ever before to pay their taxes. According to the nonpartisan Tax Foundation, the average American now works until May 10 to pay Federal, State and local taxes. In a typical workweek, the average American works until late Tuesday afternoon just to pay taxes. And the tax burden is getting worse, not better.

For the past 5 consecutive years, the growth in personal tax payments has outstripped that of wages and salaries. Americans deserve better than this tax burden and better than a spending bill for which no one is accountable.

America needs a real tax cut. The Federal Government has collected more taxes than the year before every year since 1983. We have been on an ascending, accelerating juggernaut of tax collections, and that means that the American people have not had a true tax cut in 15 years, while Washington has increased taxes twice in this decade, in 1990 and 1993. Those two tax hikes will take a combined $600 billion extra from the American people over the next 5 years.

It reminds me a bit of President Reagan's telling definition of a taxpayer. Reagan defined the taxpayer as ''someone who works for the Federal Government but doesn't have to take a Civil Service exam.''

During the debate on the Senate budget resolution last April, a number of fiscally conservative Senators and I announced that we were prepared to vote against the resolution because it planned to spend too much and cut taxes too little—only $30 billion over 5 years, or a whopping $1.83 per month in tax relief for every person in the country. We asked instead for a meaningful tax cut and the elimination of the marriage penalty which unfairly burdens 21 million couples simply because they are married.

In response to our concerns, the Senate leadership pledged to support the larger of the tax cuts contained in either the House- or Senate-passed budget resolution. The leadership also agreed to make repeal of the marriage penalty the Senate's top tax priority.

After the House adopted its budget resolution last May, the budget resolution process screeched to a halt. Why? The House budget resolution recommended cutting taxes $101 billion over 5 years. Given the agreement we had with the leadership, the Senate was to have pushed the House proposal. Unfortunately, many Senators would have rather seen the budget resolution die than have Congress pass even modest tax relief, equal about 1 percent of the revenue the Federal Government is projected to collect over the next 5 years.

For the first time since the process was established in 1974, Congress failed to produce a budget resolution and killed any chance for meaningful tax or spending cuts this year.

This unwillingness to cut taxes comes during a period in which we anticipate over $500 billion in surpluses over the next 5 years.

This unwillingness comes from President Clinton's misleading political promise to ''protect'' the surplus for Social Security. In his 1998 State of the Union Address, President Clinton proposed reserving, in his words, ''100 percent of the surplus—that's every penny of any surplus—for Social Security.''

Well, promises made, promises broken. The mantra here in Washington lives on: ''You send it, we spend it.''

Despite President Clinton's promise not to use the Social Security for anything but Social Security, the Administration has raided Social Security to fund a series of new spending initiatives—paid for by the same surplus he is purporting to save for Social Security.

While the 1997 balanced budget agreement limits discretionary spending through fiscal year 2002, this new spending has overridden these discretionary spending caps, shrinking the budget surplus and consuming money that could be used to ''save'' Social Security.

It took Congress and the White House only 1 year to breach the budget caps—1 year to break the promises made to the American people.

The Washington Post reported on Tuesday, October 20, that congressional aides have confessed that the omnibus bill not only contains $20.9 billion in ''emergency'' spending, but also busts the caps by another $7 billion in nonemergency discretionary spending. That is $7 billion in broken promises—$7 billion in spending that under the Balanced Budget Act of 1997 should not be allowed to occur.

It is not surprising that the President found a way around the spending limits so quickly. As I have said on many occasions, taxes and spending are the only things in Washington more addictive than nicotine. In fact, this

bad habit of resorting to bogus ''emergency'' spending to circumvent the discretionary caps resembles the behavior of an addict trying to rationalize his inability to stay sober.

Since 1991, Congress has passed $53.7 billion in emergency spending; that is excluding Desert Shield and Desert Storm. Unfortunately, the President's ''emergency'' spending requests do not meet any emergency other than his inability to get all he wants to spend. There are no eleventh hour developments that have made Social Security solvency a secondary concern.

The President is proposing that the equivalent of at least 24 percent of this year's surplus be spent on a Bosnia deployment that is now 4 years old, Government computer repairs—we have known about these needs—increased embassy security, and a variety of other initiatives.

Now, many of these requests constitute real and important funding issues. But emergencies? Mr. President, the well-being of our elderly is too important for half-truths and doublespeak. Nothing but the President's unwillingness has prevented the Administration from offering $21 billion in emergency spending reductions out of the Federal Government's $1.7 trillion budget.

In other words, the President could have offered to reduce spending elsewhere to accommodate his emergencies. But apparently the President would rather see our seniors' Social Security checks shipped overseas in the form of foreign aid or squandered on more Washington bureaucrats than find savings amounting to less than 1 percent of the Federal budget.

Mr. President, as I am sure you know, the Congressional Budget Office projects the Federal Government will run a $137 billion on-budget deficit over the next 5 years—fiscal years 1999 to 2003. In other words, 21 percent of the $657 billion Social Security surplus over that period will be used to finance non-Social Security spending. Yet, the administration is strangely silent about this matter.

If the administration sincerely opposes using the surplus for anything but Social Security, it should call upon Congress—as I have—to reduce projected spending by $137 billion over the next 5 years in order to eliminate the on budget deficit. Of course, the President will not do this. He prefers to block tax cuts by scaremongering vulnerable older Americans on Social Security, while spending all the money he can through budget loopholes—like the designation of his needs or desires as ''emergencies.''

Mr. President, we are here today almost 3 weeks into the 1999 fiscal year. We voted on the omnibus appropriations package, one which I voted against, that will fund the Federal Government for the next 11 months. This omnibus bill contains eight complete appropriations bills; but it also contains increased funding for the other five appropriations bills that have either been signed by the President or await his signature. Every single one of the 13 appropriations bills was affected by the bill we passed today. It even increases spending in the bills already signed into law by the President. Several of the appropriations bills included in this humongous monstrosity were never even considered by the Senate—not at all, not even for 1 day.

Again, this massive pile of programs and pork, weighing 40 pounds, standing 2 feet high, over 3,000 pages long, was not available until mid-day yesterday. Then there was just one copy in the Cloakroom for all offices to share. This bill is so huge that the CONGRESSIONAL RECORD could not even print the bill until this morning, to be available after the Senate vote.

Although the President and congressional leaders announced they had reached an agreement last Thursday, a rough summary was not even available until Monday. We do not know everything that is in this bill. I do not know half of what is in this bill, and not a single Senator does, including the leadership and the appropriators.

There is something wrong when Congress passes one bill, one huge bill, that spends so much—all 13 appropriations bills are affected, even those already signed by the President—and there is only one copy to be shared. We should be held responsible for the decisions that we make—decisions to spend the people's money, to spend the Social Security surplus, to increase the debt that will be owed by our children and grandchildren.

Who is responsible here? Who can be accountable when they do not know for what they are accountable? Today, it feels like I was asked to be nothing more than a rubber stamp for a deal made by a handful of individuals who assume they had the power to speak for all of us.

I know what the press reports say, and what the Appropriations Committee says, and what the President has said, but the bottom line is this: This legislation has not been scored by CBO, the Congressional Budget Office. Nor has the Office of Management and Budget determined that all of the emergency spending requests will be categorized as budgetary ''emergencies.'' Of course, with no office getting a copy of the bill before it was voted on, and with some 3,000 pages to review, weighing about 40 pounds, such an analysis was impossible.

So where does this leave the country? Congress has rejected calls for tax relief and has just passed a $500 billion omnibus spending bill that will cut the surplus and boost the size and the intrusiveness of Government.

The President says he wants to save Social Security, yet his every action has been designed to save a catchy campaign slogan —''Save Social Security First''—while he spends the Social Security surplus on new initiatives. The Government continues to grow, and a tax cut is nowhere in sight. Yes, I fear we may soon get all the Government we have paid for—and then some. But then Congress does not even know what we have just paid for. And we do not know what we have just passed.

We can do better, and we must do better. Our resolve must stiffen. The people of this country deserve better service from us, and we must provide it. It is with that in mind that I object to the passage of this measure today.

Mr. President, I thank the Chair and I yield the floor.

Mr. GRAMS addressed the Chair.

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

Mr. GRAMS. Thank you very much.

Mr. President, I also rise this morning to discuss my opposition to the omnibus appropriations legislation that was before us this morning.

While I realize many of my colleagues would have preferred not to return for this vote, there are a number of us who believed that a vote was essential on a bill that appropriates a third of our spending priorities for fiscal year 1999. To shirk our responsibility to the taxpayers, to hide behind an unrecorded vote, was unconceivable.

I feel strongly that we are elected to represent the American people and to take care of the Nation's business. The people expect us to be responsible. They expect us to be accountable. They expect us to be here and do our job. In other words, when it is time to cast a vote of this magnitude, they expect us to be here, to stand up and to be counted.

The omnibus appropriation legislation includes $500 billion in funding for many essential Government programs and functions. It represents 8 out of 13 appropriations bills, or two-thirds of this year's entire appropriations work, one-third of our entire annual Federal spending. It is by far the most important piece of legislation we have before us this year.

This monster bill consists of more than 4,000 pages. We can hardly lift it, much less take time to review it before the vote. I venture to say that most Members of the Senate still have no idea what is in it. Even Evelyn Wood herself could not have made it through this volume in the few short hours we had to digest it. It would take days to get through it, but we are only allowed to review it in the Chamber, with no copies available for the individual review that is necessary. I don't believe they are available yet.

Just to approve it, we were told, and everyone would be free to go home and campaign. One Democratic House Member was quoted as saying, ''We would be better off not knowing what is in the bill.'' He said, ''Ignorance is bliss.'' Even the House appropriations chairman called this an ''ominous'' spending bill.

Shame on Congress. If that is truly what my colleagues really believe, and if they really do think so little of the

taxpayers whose dollars fund every program, every agency, and every piece of pork tucked so carefully into this bill, I say to them, perhaps you have been in Washington too long. This is not how I look upon my own responsibilities to my Minnesota constituents and my constitutional duty to the Nation. The people of Minnesota didn't send me here to rubber stamp anything, and certainly not this bill.

What disgusts me most is the process that produced this omnibus appropriations legislation. The entire negotiations were secretive, arbitrary, conducted behind closed doors by only a handful of congressional leaders and White House staff. The special interests were well represented at that table, but the taxpayers clearly were not. Again, the special interests were well represented at the table, but the taxpayers clearly were not.

Is this the best deal we could get with this President? I guess it is. President Clinton was intent on spending more money, money from the surplus, money that he said, in fact, should be saved for Social Security. But President Clinton's thoughts on spending Social Security money must have been more important than evidently saving Social Security.

As soon as the bill emerged from that protective cloak, it was thrown at us and we were told to agree to it. No process of floor consideration, no debate, no amendments, no votes. I have to wonder whether this is truly a democracy. This isn't the way we do business in this great democracy. It is true Congress has behaved this way before and the secretive goings-on are nothing new. But this does not make it right.

As early at 1988, President Reagan stood up and asked Congress to change this practice. It is wrong because it destroys our democracy. It undermines our political institution of government through representation. It is wrong because it allows just a few to make policy without careful deliberation and to spend hundreds of billions of taxpayers' hard-earned money without the taxpayers being duly represented. We must stop this practice now.

Early in March, I reluctantly voted for the fiscal year 1999 budget resolution in the Budget Committee. I did so to help facilitate the process and offer a chance to improve the budget plan as it moved to the Senate floor. I later again voted for the budget resolution based on a breakthrough agreement reached with the Senate leadership.

Under this agreement, our leadership would pursue the larger tax relief number of either the Senate or House, and it would make the repeal of the marriage penalty our top priority. They committed to a tax bill this year protected by reconciliation legislation.

Unfortunately, these commitments were never honored. What did we end up with instead? Tax increases, not tax relief. More spending, not leaner, more efficient Government. And again we faced a President who threatened to veto a Government shutdown if we even dared to send him tax relief for the American people. President Clinton called Americans ''selfish'' if they want some of their surplus money back, their extra tax dollars.

Republicans have joined Democrats and the President to raise the higher spending levels added in the negotiations. It is beyond belief that, facing the first budget surplus in a quarter of a century, that this Congress could have joined with the President to produce this bill in this election year.

I have argued repeatedly before this Chamber that the surplus is generated directly by increased individual income tax payments and it has little—little—to do with Government policy. In other words, the credit for the surplus does not go to the President, to the Senate, or to the House, but the surplus goes to the productivity of the American business and the American worker.

Outside the money earmarked for Social Security, we owe it to the taxpayers to return at least some of that surplus to them. That would have been the moral and it would have been the fair thing to do.

I also warned repeatedly that if we don't return at least a portion of the surplus to the taxpayers, and soon, that Washington will spend it all, leaving nothing for tax relief or the vitally important task of preserving Social Security.

The omnibus appropriations legislation proves my point dramatically. This bill is nothing but a continuation of President Clinton's tax-and-spend policies. Again, the President's own words, ''Save Social Security first,'' and I guess what he really meant was, ''Let me spend the Social Security surplus first,'' and make sure that the taxpayer does not get their hands on the surplus.

Despite the rhetoric about fiscal discipline, Washington has broken the spending caps by using the budget surplus. The spending bill exceeds the caps by at least $20 billion, and the only reason there is any surplus still on the table is that Washington evidently ran out of time to spend it.

To mask its budget maneuvering, Washington has covered its tracks with budget gimmicks, including $4 billion in Social Security ''forward funding'' into the year 2000. How are we going to adapt this to lower spending next year? Will we keep on forward funding into the future, shrinking and shirking our budget responsibilities?

Another dishonest accounting measure was to label this additional spending as ''emergency spending'' in order to justify the breaking of the spending caps. Instead of fencing off the budget surplus to save Social Security first, as it claims it is doing, Washington has spent an additional $22 billion of the budget surplus—a third of the surplus—to fund non-Social Security programs—again, nearly one-third of the 1998 budget surplus. This is Washington hypocrisy of the highest degree.

In the past few months, I heard so much demagoguery in the Chamber about saving Social Security, and we have heard the President pledge repeatedly to the public that he wanted to use every penny of the surplus for Social Security. But to date, the administration is still denying they have, in fact, used the budget surplus. It appears this administration has a very unique way of interpreting the truth or admitting the obvious.

Few of the ''emergency spending'' items in this bill are truly emergency related. Many of these dollars could have been added early on in the appropriations process. But the maneuvering allowed the President to spend more, and I know President Clinton's biggest disappointment in this budget is he wasn't able to spend even more. The Y2K problem is not new. The need for Bosnia troops funds and the readiness funds is also not new. These should have been funded earlier. They should have been funded through the normal budget and appropriations process. But that allowed them to spend more of the regular budget so they could come back and dig deeper into the surplus to spend more money.

I only wish this Congress and the President could be as creative in finding ways to reduce taxes, cut spending and make the Government more efficient as they are in finding new and creative ways of spending money, especially the surplus, and making this Government even bigger.

It is ironic that my Republican colleagues are scared to death of using the budget surplus for tax relief, despite the fact that it is the taxpayers' money in the first place, but don't mind at all in helping the Democrats to spend it.

This bill is a Christmas tree that is loaded not with ornaments but with plenty of pork projects and backdoor spending. Here is one example: The bill includes $1 billion for global warming, a 26-percent increase from last year's funding level. The Senate and the House had previously rejected this level of funding—rejected it—but somehow somebody managed to just sneak it back into the bill. Yet the President hasn't even sent us the global warming treaty. So this funding basically just mocks the Hagel-Byrd resolution that we passed last year.

There are some good provisions that I support and worked hard to have included in this bill. There are many good things in here, such as the desperately needed relief for farmers, IMF funding, and 100 percent healthcare cost deductions.

Frankly, some of the provisions and funding will help my own state of Minnesota. But the reckless process and irresponsible spending overshadows these good provisions. It was against my conscience to vote for this legislation.

Mr. President, I am deeply disappointed by the inability of our own Republican leadership to keep its promise to working Americans. I am

also deeply troubled that the Republican Party seems to have lost its courage to stand up to our principles. I expect compromises have to be made, but not compromises so heavily weighted in one direction, allowing heavy handed arm twisting, black mailing tactics of this White House to succeed.

When I first ran for Congress six years ago, I was very proud to be a Republican because we believed in our vision of a government that works for the people, and we believed government should be limited to only that amount needed for necessary services. The Democratic Party, on the other hand, has long believed that people should work for the government—or, at the very least, that the government has a right to spend every penny it can take from working Americans. Basically, Washington doesn't believe Americans are smart enough to take care of themselves. I don't know many Americans who believe they need Washington to hold their hand in spending their money or taking care of their families.

That is exactly why the American taxpayers ushered in an era of Republican congressional leadership in 1994—a new majority that pledged to provide fiscal discipline, individual freedom, personal responsibility, and prosperity for all people.

What changes have this new majority made four years after the 1994 Republican revolution? Well, the distinctions between the two political parties have all but disappeared; the taxes on working Americans are at an all-time high; the government is getting bigger, not smaller; federal spending has increased from $1.5 trillion in 1994 to $1.76 trillion today; and the national debt has grown from $4.9 trillion to $5.7 trillion, an $810 billion increase.

Mr. President, these are the differences for which this Republican-led Congress can take its share of the credit, or more honestly the blame!

Republicans failed not because our efforts have lost the support of the people, but because our party has lost its backbone. It has lost the courage to make a stand on principle and not abandon its moral compass at the first sign of resistance.

Mr. President, each time Congress makes a promise to the taxpayers—as it did in promising significant tax relief this year—and then deserts them, Congress comforts itself by saying it will come back next year and enact an even larger tax cut. I view this as an insult that flies in the face of Reality! 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.

Mr. President, another big mistake we made that helped create the mess we find ourselves in today is that we failed to pass the ''good government'' legislation I proposed in 1997. I have repeatedly asked our leaders to honor the commitment they made during consideration of last year's disaster relief legislation to bring up legislation that provides an automatic CR at last year's funding level for remaining appropriations pending at end of the session. This would keep pressure on appropriators to complete their business and keep all of us in the process—not just a select few. It would also keep us free from political blackmail: ''If you do not give me this, then I will shut down the government and blame you for being heartless and ineffective.'' It happened before, and Republicans were afraid it could happen again, and the recklessness of this White House for political purposes is a reality. Had we such a process in effect this year that would not allow the government to shut down, we would have completed the business of the nation on September 30, and not been forced back here to vote on October 20. This path, not the path we are currently on, would have been the responsible path to take.

Mr. President, I therefore was forced to cast a ''no'' vote on this legislation because I am deeply disappointed in this business-as-usual attitude, and deeply disgusted with the process the pork-laden, backdoor spending, and the budget gimmicks. Americans deserve better. And let us put Congress and this President on notice, we will use every Senate rule available not to let this happen again next year.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, unless less than 48 hours ago, only a few in this body had actually seen this nearly 4,000-page, 40-pound, non-amendable, budget-busting legislation that provides over half-a-trillion dollars to fund 10 Cabinet-level federal departments for the fiscal year that started 21 days ago. The bill exceeds the budget ceiling by $20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, pork-barrel appropriations. The bill is loaded with locality-specific, special interest, pork-barrel spending projects, which are paid for by robbing billions from the budget surplus.

I cannot in good conscience support a bill that makes a mockery of the Congress' role in fiscal matters. This bill is a betrayal of our responsibility to spend the taxpayers' dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

Most offensive and disturbing to me is the misallocation of more than $9 billion in so-called emergency defense funding in the bill. The decision to spend only slightly more than $1 billion on military readiness, when the Chairman of the Joint Chiefs of Staff and each of the Service Chiefs testified just last month about an impending readiness crisis, is a fundamental abandonment of the men and women who serve in our Armed Forces.

I recently released a comprehensive report on the state of military readiness that includes a lengthy compilation of material provided by the Chiefs detailing the myriad of problems the Armed Forces are facing as a result of inadequate resources to support the missions their civilian leaders have assigned them. In these documents and in their testimony to the Senate Armed Services Committee just last month, the Chiefs were unambiguous in pressing for additional funding to address several serious concerns.

Restoring military retirement benefits was the Chiefs' principal concern, and I and others introduced legislation to do so. The Chiefs cited the need to increase military pay for the 25,000 military families on food stamps. They asked for money to provide incentives to attract and retain qualified people in military service. They talked about the dire need for more training and maintenance funds.

Mr. President, the Chiefs are the highest ranking military officers in our nation. Their sole mission is to ensure that our Armed Forces can fight and win any future conflict. They are the ones whom we should heed when we are told how to avert a crisis in military readiness.

So what did the Congress decide to do to address the Chiefs' concerns? We put over $9 billion in so-called emergency defense funding in this bill. But we allocated only $1.1 billion to the Chiefs' priorities, and spent the other $8 billion on other programs that, while important, will not reverse the declining readiness trend in our military.

We did nothing to address the Chiefs' number-one concern—restoring military retirement benefits for 20-year veterans to a full 50 percent of their highest three salary years. General Hugh Shelton, Chairman of the Joint Chiefs of Staff, told the Congress very clearly that fixing the military retirement system is his top recommendation for restoring the readiness of our armed forces:

> The most critical element of both current and future readiness is the men and women we are privileged to have serving in uniform today. Our people are more important than hardware.

I concur whole-heartedly with the Chairman's remarks. Army Chief of Staff General Reimer has written to me that:

> . . . the retirement package we have offered our soldiers entering the Army since 1986 is inadequate. Having lost 25 percent of its lifetime value as a result of the 1980's reforms, military retirement is no longer our number one retention tool. Our soldiers and families deserve better. We need to send them a strong signal that we haven't forgotten them.

Mr. President, we did nothing to address this clearly stated, number-one concern.

Instead, we bought three Gulfstream executive passenger jets, bought helicopters for the Colombian anti-drug effort, and padded the budget to pay for burying utilities at Keesler Air Force Base. We gave another $210 million of defense money to the Coast Guard to pay for its drug interdiction mission.

We did give the Services $200 million for military health care, but that's less than a quarter of what's needed to ensure military personnel and their families receive the care they need. And we took care of other legitimate emergency costs, like ongoing operations in Bosnia and embassy security. But on the whole, the Congress ignored the clear warnings of our highest ranking military leaders and, once again, let their parochial priorities take precedence.

Obviously, the waste in this bill does not stop with defense spending.

Here is just a sampling of the egregious pork-barrel spending in this bill:

$250,000 to an Illinois firm to research caffeinated chewing gum;

$750,000 for grasshopper research in Alaska;

$1 million for peanut quality research in Georgia;

$1.1 million for manure handling and disposal in Starkville, Mississippi;

$5 million for a new International Law Enforcement Academy in Roswell, New Mexico;

$1 million for Kings College in Wilkes-Barre, Pennsylvania, for commercialization of pulverization technologies;

$250,000 for Hawaii Volcanoes Observatory;

$1.2 million for a C&O Canal visitors center in Cumberland, Maryland;

$250,000 for a lettuce geneticist in Salinas, California;

$500,000 for the U.S. Plant Stress and Water Conservation Lab in Lubbock, Texas;

$162,000 for research on peach tree short life in South Carolina;

$200,000 for research on turkey carnovirus in Indiana;

$64,000 for urban pest research in Georgia;

$100,000 for vidalia onion research in Georgia;

An additional $2.5 million for the Office of Cosmetics and Color; and

$200,000 for a grant to the Interstate Shellfish Sanitation Commission.

And there is much more wasteful spending in this 4,000-page document. I have here 52 pages of items that I have found in this bill that meet one or more of the criteria that I and others, such as Citizens Against Government Waste, the National Taxpayers Union, and other well-known pork-watchers have used for many years. I have no idea yet of the total amount of pork on this list, but I am sure it is in the billions of dollars.

Some of these earmarked projects may well prove meritorious and deserving of the priority given them in this bill. The problem is that none of these provisions went through the appropriate merit-based selection process, which is necessary to determine whether they are more or less a priority than thousands of other projects that are not funded in this bill. In addition, some of these provisions were never included in either the House or Senate version of any regular appropriations bill. They were simply added, behind closed doors, to this massive, non-amendable omnibus bill.

Mr. President, we are wasting the people's money when we fund these dubious proposals. We undermine the faith of our constituents—the taxpayers—when we continue the practice of earmarking and inappropriately designating funding for projects based on political interests rather than national priority and necessity. Unfortunately, that has occurred here. This bill is a shameful example of why the American public has become cynical and skeptical of government.

We seem to have forgotten that all these programs, whether meritorious or not, must be paid for. Designating spending as an ''emergency'' doesn't make it free; it still has to be paid for. And the Congress, blessed with the first budget surplus since 1969, has been unable to resist the temptation to dip into that $70 billion surplus and spend it on pork.

The President declares we must save Social Security first. Members of Congress declare we must save Social Security first. Yet, we spend billions from the surplus on everything but Social Security. We don't save Social Security. We don't pay down the debt. We don't return to taxpayers a little of their hard-earned money. But we can spend a little more on pork. I guess we can never have too much of that, Mr. President, surplus or no surplus.

Mr. President, we have lost track of our priorities. I am disheartened that Congress found the time and money to finance any number of pet projects, yet we failed to address the needs of over 7,000 children and families whose lives have been devastated by hemophilia-related AIDS, in part because of the government's failure to implement the appropriate safety precautions for the nation's blood supply in the 1980's. This is simply shameful.

Mr. President, we are supposed to follow a process in Congress for considering important legislation—a process that relies on openness, fairness, and public input. If we had adhered to that process in crafting this bill, many of these egregious provisions might have been eliminated and our priorities might have been compatible with the public's priorities.

The process by which this bill was created is deplorable. Negotiations were conducted behind closed doors, out of sight of the public as well as the vast majority of Members of Congress. Decisions were made, and then reversed without notice.

A case in point, Mr. President, is a provision to clarify the status of auctioned spectrum licenses if the purchaser declares bankruptcy. At 5:00 p.m. on Monday, just a few hours before the Omnibus Appropriations bill was filed in the House, I was told that this provision was included in the legislation. Yesterday morning, it had been dropped from the bill.

In addition, only after the bill was filed did I learn that several provisions which are clearly within the jurisdiction of the Commerce Committee, which I chair, were included in the bill. I know other authorizing chairmen share my frustration at never having been consulted or even advised about these matters.

Let me point to one example of an appropriation exceeding the amount authorized for a program. The Senate authorized $192 million for the Advanced Technology Program of the Commerce Department; the House approved $180 million. Yet this bill appropriates $203.5 million for the program. What is the purpose of authorizing funding levels, when the appropriators simply ignore it and alone decide how much money to appropriate?

Mr. President, I learned yesterday that the bill does not include a cost cap on the international space station, as I had earlier been assured—a cost cap that was included in the NASA reauthorization bill that was reported from the Commerce Committee and passed by the Senate. And I learned that the bill includes a provision for a $20 million, taxpayer-funded buyback of three boats to limit domestic competition in the fishing trade off Alaska—legislation that the Commerce Committee had not yet sent to the Senate.

Mr. President, speaking about the authorizing legislation in this bill, one of the greatest failures of the omnibus bill is its rejection of comprehensive legislation to improve aviation competition, safety, and security. Critical aviation programs were due to be reauthorized this year, and the Commerce Committee duly reported the Federal Aviation Administration Reauthorization bill to the Senate. It passed the Senate last month, on an overwhelming vote of 92 to 1.

In this bill, we had an opportunity to stimulate much-needed competition in the aviation industry and enact a host of other critical improvements in aviation policy. Frankly, because of the influence of the major airlines and other secondary interests, the legislation was blocked. But what we did see fit to do is place a hold on activities of the Department of Transportation to address anti-competitive behavior in the airline industry. Major airlines won; competition and consumers lost.

Mr. President, I am very disappointed to report that the major airlines have succeeded in dealing yet another setback to the nation's consumers. As many of my colleagues are aware, the major airlines were able to scuttle the Federal Aviation Administration reauthorization bill that passed the Senate last month by a vote of 92 to one. Some of the biggest players in

the industry fought against it because the bill contained numerous provisions that would have enhanced airline competition, promoted new entry, and benefitted consumers. That is why the reauthorization bill was reduced to a mere six-month extension of the airport grant program.

To add insult to injury, the major carriers have now succeeded in hampering efforts by the Department of Transportation (DOT) to curtail illegal competitive behavior industry. Regrettably, the omnibus appropriations bill includes provisions that would needlessly delay the issuance of pro-consumer airline competition guidelines that have been proposed by the DOT. Once again, the major airlines have gotten their way in Congress when it comes to protecting their turf. Not satisfied with maintaining the status quo, these carriers have forced us to take a step backwards.

Last April, the DOT took the commendable step of proposing guidelines to curb unfair and anti-competitive pricing behavior in the airline industry. It didn't take long, however, for the major airlines to begin attacking the DOT for having the audacity to address this issue.

The DOT has already been taking its time reviewing public comments on its proposed guidelines, which I admit may be in need of improvement. The added delay provided in the omnibus budget bill only serves to aggravate the existing situation. The airlines readily admit that this extended delay gives them more time to kill the competition guidelines outright. That has been the airlines' goal from the start.

Shortly after the DOT proposed its guidelines, the Aviation Subcommittee held a hearing on airline competition, and the main focus was these guidelines. The DOT presented very compelling evidence that there have been instances of predatory behavior. But the major airlines merely shrug when confronted with very specific examples of a major carrier's driving a new entrant out of a market by irrationally cutting prices and increasing capacity.

Even though such conduct makes sense only if predatory behavior is the standard, the major airlines insist that they only respond in normal ways to new entrants.

Clearly, the DOT's effort to address this sort of behavior was too much for the major carriers to accept. They were able to exert enough influence on the budget negotiation process to put the competition guidelines on hold. The carriers were successful, despite that fact that no such provision passed either Chamber of Congress.

With respect to airline competition policy, as well as many other matters in the omnibus bill, this situation represents the triumph of special interests over the public interest. The losers here are not just the new airlines, but the consumers.

Despite this setback, I want to assure everyone that I will continue my fight for full and fair airline competition. Whether because of predatory behavior, or artificial barriers to entry such as slots and perimeter rules, the traveling public has yet to realize fully the benefits of deregulation. Fortunately, Congress will have an opportunity to take action again soon when the authorization for the Airport Improvement Program expires at the end of next March.

Mr. President, we must not let the major airlines dictate the terms of competition in their own industry. I am determined to see Congress do better by consumers next time.

Mr. President, I am also deeply disturbed that the House leadership has killed aviation competition legislation this session of Congress. Congress' record shows that it has done nothing to ensure a vibrant, competitive airline industry. Instead, the negotiators eliminated competition provisions such as new slot exemptions at capacity controlled airports, as well as efforts to loosen the perimeter rule at Reagan National Airport. Legislation to manage the environmental effects of flights over national parks also fell by the wayside because of this approach. Obviously the agenda of some is only to protect the big airlines against competition. Let's be clear, the big airlines have won. Consumers lost. That is a record about which nobody should be proud.

Most of my Senate colleagues know that the Commerce Committee worked hard this year to develop a bill to reauthorize the Federal Aviation Administration and the programs it oversees. Following a bipartisan, inclusive, and constructive process, we developed a package that among other things would authorize important airport construction grants. The legislation would institute a host of safety and security enhancements. It would provide the necessary spending to add more air traffic controllers in a congested system, and to make sure that the critical air traffic control systems are equipped to deal with the year 2000 problem. And, the bill would have established a widely-endorsed system for managing the environmental consequences of commercial air tour flights over national parks.

One of the key elements of the Senate FAA bill was the aviation competition title. It would have modestly enhanced the capacity at the four slot-controlled airports in the country—LaGuardia and JFK in New York, Chicago O'Hare, and Reagan National. The new entrant, low fare carriers have been effectively shut out of these key markets, which are critical to sustaining a healthy network and giving consumers new low cost choices.

Service to underserved markets in the country would have greatly benefited under the Senate bill. Rural America has suffered the most from the effects of hub dominance and the lack of airline competition. My colleagues from the Dakotas can tell you firsthand about the crippling effects of the recent Northwest Airline strike, for instance. Northwest dominates their region. When it shut down, they were literally cut off from the rest of the country. This is unconscionable.

There are other, clear ''pockets of pain,'' according to the Department of Transportation and the General Accounting Office. These include communities in the Appalachian Region, such as Knoxville, Tennessee; communities in the southeast, such as Jackson, Mississippi; Des Moines, Iowa, in the midwest; Rochester, Syracuse and Albany in upstate New York. The citizens of these communities will continue to suffer from having to pay exorbitant air fares without any real kind of relief that could have been provided with the FAA bill's promotion of additional airline competition on existing routes, and additional access for these underserved communities in key business markets such as Washington and New York.

There are two reasons why the FAA reauthorization bill failed in the 105th Congress, along with its provisions to enhance competition in the domestic airline industry. The first reason is the utter intransigence on the part of the major airlines, and the unmitigated gall that they exhibit in defending the anti-competitive status quo. Their motives are dictated solely by increasing their profits with no concern for the free market. It's about blatant anti-competitiveness. At the same time that they herald industry consolidation and hoard capacity at their hubs, they continue to thwart efforts to respond to these changing dynamics in the industry.

Parochial interests on the part of members of Congress constitute the second reason that this bill failed.

Specifically, House lawmakers from Illinois and Virginia have taken down the entire FAA bill because of a few noise complaints from their districts. We have done everything possible to accommodate their constituents' noise concerns. We have minimized the impact of new flights by spreading them out so that there are only one or two new flights per hour. We have increased their noise mitigation funding. Further, the FAA continues to enforce Congressional aircraft noise requirements that have brought noise levels down in their neighborhoods significantly over the last decade.

Notwithstanding, these Members refused even to come to the table to acknowledge legitimate interests. Let us not forget, the FAA bill was approved freestanding by the Senate on a vote of 92 to one. However, the House refused to even conference with the Senate on the bill.

This is not an insignificant issue. As I noted earlier, just ask the people of North and South Dakota who were effectively paralyzed because of one airline. Competition is the principle upon which our free market economy is based. It is a complete, utter and

wholesale abrogation of our responsibilities, not only to kill pro-competition and pro-consumer provisions of the FAA bill, but to stop any addressing of the issue by the proper authorities. The omnibus appropriations bill blocks pro-consumer airline competition guidelines, which were recently proposed by the Department of Transportation.

During these six months we will seize the momentum we developed this year to enact aviation competition legislation. We will also be examining additional pro-competition issues. It is too important to our country, to consumers and to the principles of our free market economy to look the other way.

Mr. President, as we work over the next six months to finish the job of reauthorizing federal aviation programs, I intend to use all means at my disposal to rectify this situation.

Mr. President, even today, there is confusion about what is in the bill and what is not, because the only copy that was available Tuesday to all Republican Senators was scattered in pieces around the Republican Cloakroom. There are no copies of this bill available to the public and only a few copies available in the Capitol. Most of what the public knows about this bill comes from media reports and the rumor mill. Members of Congress are only slightly better informed about the details of this bill, and we have had no opportunity to carefully review it.

And even if a Senator discovers that there is something in this bill that is highly objectionable to him, he cannot amend the bill. He can only vote for or against the entire package. It is all or nothing—take it or leave it. We are all held hostage to a process that protects pork-barrel spending at the expense of good policy.

Well, I, for one, will leave it. That is why I voted against the wanton fiscal irresponsibility this legislation represents.

Mr. President, we cannot continue to do business this way. We have an established process and we should follow it. I intend to work with like-minded Senators to develop needed reforms in that process to ensure that the Congress cannot so easily sidestep the checks and balances that are so clearly necessary to control wasteful spending and ensure responsible legislating, and that were intended by the Constitution.

Mr. President, I do want to take a moment to talk about some of the programs and provisions in this bill that are meritorious and which, in other circumstances, would have received my full support and my vote.

For example, the bill blocks the use of taxpayer-funded needle exchange programs for drug addicts, institutes new reforms to ensure accountability and market-based response measures within the International Monetary Fund (IMF), and extends important tax provisions, such as the work opportunity and research and development tax credit. Also, the bill contains $18 billion to replenish the International Monetary Funds depleted resources, which is critical to restoring confidence and economic stability in the global economy.

This bill funds many important programs directly benefitting American families and providing critical assistance to our children, including Child Care Block grants and Head Start. It increases funding for the Department of Education to almost $33 billion, including $8 billion for disadvantaged children and over $5 billion for children with special needs, but not at the expense of local control. The bill sends $1.1 billion directly to local classrooms ensuring schools have the flexibility to determine how to meet the unique educational needs of their students instead of Washington bureaucrats, and it prohibits federally funded national tests, leaving that decision to state and local authorities.

I am also pleased to see inclusion of the Internet Tax Freedom bill, introduced as S. 442, in the omnibus appropriations bill. This limited moratorium reflects the need for careful thought and analysis of the implications for taxing electronic commerce, and the proper roles for local, state and federal government in taxing the Internet. Present federal law neither authorizes, imposes, nor ratifies any excise, sales, or domain name registration tax on Internet use for electronic interstate commerce, and only one fee for the Intellectual Infrastructure Fund. I am confident that this moratorium will allow Congress to move forward in developing a national strategy for advancing electronic commerce and appropriate taxation of the Internet.

I am pleased to see that the provisions concerning Amtrak generally maintain the integrity of the Amtrak Reform and Accountability Act and continue the mandate for Amtrak to operate free of taxpayer subsidies by 2002. The bill also provides funding, though limited, directly to the Amtrak Reform Council instead of channeling such funds through the Secretary of Transportation. These are good decisions, ones which I support.

Also contained in this omnibus bill is legislation to increase the number of H–1B visas for skilled foreign professionals who wish to work temporarily in the United States in jobs unfilled by American workers. I cosponsored the original Senate legislation to raise the existing cap on H–1B visas. The provisions in this bill will allow dynamic American companies and research labs to hire more skilled foreign professionals. At the same time, we have incorporated safeguards to protect American workers and provide substantial funding to educate and train Americans to fill the lucrative high-tech jobs that are available across our country. American companies, American workers, and the American consumer will all benefit as a result.

The provisions I have just mentioned, and many others, are good for the American people. In fact, if these and many of the other policies and programs contained in the Omnibus Appropriations bill had been proposed and considered in the established process, I would have voted for them. Unfortunately, because the Congress has abandoned the normal process of legislating, my vote against this Omnibus Appropriations bill may also be construed, albeit wrongly, as a vote against these meritorious provisions. My vote against this precedent-setting legislation should be recognized for what it was—a vote against wasting taxpayer dollars and failing to ensure the readiness of our Armed Forces.

Responsible spending is the cornerstone of good governance. I look forward to the day when we can go before the American people with a budget that is both fiscally responsible and ends the practice of earmarking funds in the appropriations process.

Mr. President, those of my colleagues who support this legislation will say of us who oppose it that we are not practical politicians, that we ask for the impossible—legislation that is free of compromise, that we would let the perfect be the enemy of the good. That is a false charge, and it fails utterly as a defense of a legislative process that everyone agrees is terribly, terribly flawed.

We do not ask that a Republican majority produce legislation that reflects in every detail our priorities and dismisses completely the views of the President and the minority. We ask only that, on balance, any legislation—and surely legislation of this magnitude—reflect the principles upon which our majority was elected. We ask only that the Congress complete its work when it is supposed to complete it work, and in a manner that ensures fairness, openness, and inclusions. We ask only that we adhere to a little truth in advertising.

When we say we are going to save Social Security first, we ask only that we make some attempt to do so. When we call something an emergency, we should be able to say it with a straight face. When we promise to restore the resources necessary to provide for the common defense, we must pay just a little attention to the concerns of the military. When we promise to return to the people some percentage of the money they have sent to Washington, we ask only that we rank that pledge somewhat higher on our list of priorities than the usual cornucopia of parochial spending.

Those who voted against the omnibus appropriations bill would not let the perfect be the enemy of the good. We simply oppose letting back-room negotiations, business as usual, and pork-barrel politics be the enemy of principle.

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

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll to determine the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. 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. JOHNSON. Mr. President, I voted today for the omnibus appropriations bill that was pending before the Senate, in large part because, very frankly, of my great doubt that delaying what already has been an utterly abominable legislative process would, at this late point, improve the nature of the final product.

It should be abundantly clear to us all, to even the most casual observers, that the first and most fundamental mistake made by this 105th Congress was the unwillingness, or perhaps the inability, of the Republican leadership to craft a budget resolution acceptable to a majority of Members of both parties. But, amazingly, the Republican leadership was then unable or unwilling to put together a budget resolution that could even muster the majority support of its own party. As a result, for the very first time since the current Budget Act was enacted, Congress was forced to proceed on with the 13 separate appropriations bills without the benefit of the direction of a budget resolution at all.

In fairness, this body did pass its own version of a budget resolution, and much of the difficulty in reaching an agreement with the other body lies with the radical faction in the House, which was unwilling to support any measure unless it called for huge tax reductions funded out of a naked raid on the Social Security surplus. There were a few Members of this body as well who indicated they could not vote for a final resolution unless a tax cut/Social Security plunder plan was involved. So, April 15, the deadline for passage of a budget resolution, came and it went, and in the end no agreement was reached between the Senate and the other body and no serious effort at bipartisanship, frankly, was ever attempted. The budget process that has ensued, and we have witnessed its culmination today, is certainly a case of the Republican leadership having to reap what it sowed.

Without the discipline of a budget resolution, this Congress then proceeded to make an utter mockery of the appropriations process.

Rather than deliberate debate and careful consideration of the 13 separate appropriations bills needed to run the Federal Government, we wound up with an omnibus appropriations bill weighing some 40 pounds and going on for 3,825 pages as it compressed 8 of the appropriations bills, a supplemental appropriations bill, and miscellaneous matters all into one ill-considered mess. The bill we have had before us today is a consequence of massive, massive legislative mismanagement.

All this is not to say that the legislation that was before this body today did not have some redeeming strengths. There will be no Federal Government shutdown, and as the American people rightfully celebrate the first balanced unified Federal budget in 30 years, the omnibus bill does stay within the previously agreed upon budget caps. Thanks to President Clinton and his earlier veto, this legislation does provide for significant assistance for farmers and ranchers suffering through an economic crisis throughout much of rural America and, again, thanks to the President's tenacity, this bill will provide for the hiring of additional teachers and the expansion of some key educational programs, such as Head Start.

But even here, the omnibus bill is not as good as it ought to have been. The agricultural provisions failed to address the underlying problem of inadequate market prices for livestock and grain by neglecting to raise the marketing loan rates, and by eliminating price reporting and country of origin meat labeling, it does next to nothing for livestock producers.

The educational provisions are inadequate in several areas, but most noticeably, the Republican leadership refused to permit a Federal-State-local partnership which would have allowed the cost of school construction and renovation bonds to have been significantly reduced for local taxpayers.

To this Senator, it is simply outrageous for some on the far political right to claim, as they have, that this commonsense provision would have amounted to some sort of ''federalization'' of education. Clearly, the decisions as to whether to build or renovate a school would have remained at the local level, where such decisions belong, and the bulk of funding for such construction would likewise have remained appropriately enough with local taxpayers.

Mr. President, it is not federalization for the Federal Government to help local citizens reduce the cost of their education decisions, decisions that they make at the local level, by partially writing down interest rates on the bonds which these school districts would then have to issue.

There are some who are referring, with some justification, to the 105th Congress as the worst that has ever met in this Capitol Building. I don't know if that is true, but the mismanagement of this legislation, coupled with the refusal of the majority leader to even allow meaningful debate and progress on such issues as managed health care reform, campaign finance reform, and modernization of financial services, among others, ought to be a source of shame for this institution.

Again, Mr. President, while some have voted against the omnibus bill as a protest gesture, motivated by any number of concerns, I wanted to do the responsible thing, and I voted to pass this faulty but, frankly, at this point in time very necessary legislation. It is my hope, however, that never again will Congress proceed without a budget resolution and without an opportunity to debate and deliberate on individual appropriations bills in a timely manner.

FEDERAL VACANCIES REFORM ACT

Mr. THOMPSON. Mr. President, I am pleased that the essentials of S. 2176 have been incorporated into the Omnibus Appropriations bill, H.R. 4328. I appreciate the work of my colleagues, Senator BYRD in particular, in seeing that this bill becomes law.

Mr. President, I wish to address the changes that have been made to S. 2176 since it was reported out of the Governmental Affairs Committee. The legislative history of the bill is largely described in the Committee report, S. Rep. 105–250. However, this is the opportunity to discuss the subsequent changes made in the bill.

The term ''first assistant to the office'' is incorporated into 5 U.S.C. § 3345(a)(1), rather than ''first assistant to the officer.'' This change is made to ''depersonalize'' the first assistant. Questions have arisen concerning who might be the vacant officer's first assistant if the acting officer dies or if the acting officer resigns while a permanent nomination is pending. The term ''first assistant to the officer'' has been part of the Vacancies Act since 1868, however, and the change in wording is not intended to alter case law on the meaning of the term ''first assistant.''

A third category of ''acting officer'' is now permitted apart from first assistants and presidentially designated persons who have already received Senate-confirmation to hold another office. The President (and only the President) may also direct an officer or employee of the executive agency in which the vacancy arises to be the acting officer if that officer or employee served in that agency for 90 days preceding the vacancy caused by the departure of the prior Senate-confirmed officer and, the officer or employee has been paid at a rate at least equal to a GS–15. Concerns had been raised that, particularly early in a presidential administration, there will sometimes be vacancies in first assistant positions, and that there will not be a large number of Senate-confirmed officers in the government. In addition, concerns were raised about designating too many Senate-confirmed persons from other offices to serve as acting officers in additional positions.

The 180 day period in § 3345(b) governing the length of service prior to the onset of the vacancy that the first assistant must satisfy to be eligible to serve as the acting officer is reduced to 90 days. Under § 3345(b)(1), the revised reference to § 3345(a)(1) means that this subsection applies only when the acting officer is the first assistant, and not when the acting officer is designated by the President pursuant to §§ 3345(a)(2) or 3345(a)(3). The 90 day service requirement is inapplicable to a first assistant who has already received

Senate confirmation to serve in that position.

New § 3345(c) was added to address the special case of an executive department (not executive agency) officer who serves not at the pleasure of the President, but under a fixed term, and without a holdover provision that governs acting service in that office following expiration of the fixed term. In that situation, without passing judgment on the constitutionality of fixed term appointees within executive departments, if the person whose term expires is renominated without a break in service, that already Senate-confirmed officer may continue to serve in the position subject to the time limits contained in § 3346 until the Senate confirms or rejects that person's renomination, notwithstanding the adjournment of the Senate sine die. The subsection does not apply until the incumbent officeholder is renominated, or when a person other than the previously appointed officeholder is nominated.

In § 3346(a), an exception is added for ''sickness,'' a narrower category than ''unable to perform the functions and duties of the office.'' If the Senate-confirmed officer cannot serve because he is sick for more than 210 days, the acting officer may continue to serve during the sickness, and no nominee need be submitted to the Senate to avoid the vacant office provisions of § 3348. The office is not vacant if the Senate-confirmed officer is sick, and he may reclaim the office even after 210 days if he is no longer ill. However, the 210 day limit will apply if the Senate-confirmed officer is unable to perform the functions and duties of the office for other reasons. For instance, the Doolin court stated that the current language of the Vacancies Act does not apply when the officer is fired, and for similar reasons, it might not apply when the officer is in jail if he does not resign. To make the law cover all situations when the officer cannot perform his duties, the ''unable to perform the functions and duties of the office'' language was selected. Sickness is the only exception to the 210 day limit, since in other circumstances when the officer is unable to perform the functions and duties of the office, there is no reason to allow the officer to reclaim his duties sometime after 210 days.

The 150 day period adopted in the Governmental Affairs Committee was lengthened to 210 days in each place it appeared in § 3346 as an accommodation to the Administration in light of the increased time the vetting process now consumes.

The amendment's striking of ''in the case of a rejection or withdrawal'' in § 3346(b)(2) is to ensure that an acting officer can serve for 210 days if a second nomination is made of a person whose first nomination was returned by the Senate.

The phrase ''applicable to'' is replaced by ''the exclusive means for temporarily authorizing an acting official to perform the functions and duties of'' in § 3347(a) to ensure that the Vacancies Act provides the sole means by which temporary officers may be appointed unless contrary statutory language as set forth by this legislation creates an explicit exception.

The phrase ''statutorily vested in that agency head'' is added to § 3347(b) to clarify that so-called ''vesting and delegation'' statutes that permit the agency head to delegate functions and duties to subordinates in the department whose positions lack defined statutory duties apart from assisting the agency head do not permit the agency head to appoint acting officials. Thus, the organic statutes of the Cabinet departments do not qualify as a statutory exception to this legislation's exclusivity in governing the appointment of temporary officers.

Changes were made to § 3348(b) to provide that the vacant office provisions of the legislation apply not only when an acting officer has served more than 210 days without a nomination for the office having been submitted to the Senate, but also prior to the 210 days after the vacancy occurs unless an officer of employee performs the functions of the vacant office in accordance with §§ 3345, 3346, and 3347 of this legislation.

The tolling period provided in § 3348(c) when the 210th day falls on a day on which the Senate is not in session is extended from the first day that the Senate is next in session and receiving nominations to the second such day.

The changes clarify § 3348(d) to provide that actions taken by persons not acting under §§ 3345, 3346, or 3347 or as provided by § 3348(b) of any function of a vacant office to which §§ 3346, 3347, 3348, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

Added to the list of positions in § 3348(e) that are not subject to the vacant office provisions are any chief financial officer appointed by the President by and with the advice and consent of the Senate, since the head of the agency should not be permitted to execute the functions of such an official. The amendment also adds to the same list any other positions with duties that statutory provisions prohibit the agency head from performing.

The Comptroller General's duties under § 3349(b) are now to be performed ''immediately'' upon his or her determining that the 210 day period has been exceeded.

Section 3349b is changed to preserve all statutory holdover provisions in independent establishments, not merely those independent establishments headed by a single officer.

The list of excluded officers contained in § 3349c is expanded to include any judge appointed by the President by and with the advice of the Senate to an Article I court. This includes the Court of Federal Claims, but this exclusion does not apply to administrative law judges, since they are not appointed by the President by and with the advice and consent of the Senate. The list is also expanded to include members of the Surface Transportation Board, which, like the Federal Energy Regulatory Commission, is denominated an ''independent establishment'' despite its location in an Executive department.

New § 3349d addresses the situation when the 210 day service period for an acting officer expires without a nominee having been submitted to the Senate, and the 211th day occurs during a Senate recess or adjournment of more than 15 days. Rather than wait until the Senate reconvenes to avoid the vacant office provisions of § 3348 from taking effect, the President may submit to the Senate a written notification of intent to nominate a permanent officer for a particular office after the recess or adjournment. At that point, an acting officer qualified to serve as such by this law may begin to serve as the acting officer for that particular position. So long as the President actually submits the nomination of the person so designated in the written notification for that particular office within two days of the Senate's reconvening, the actions of the acting officer are valid from the date the acting officer begins service and so long as the nomination is pending. However, if the President does not actually nominate the person who was the subject of the written notification for the particular subject designated in the written notification within two days of the reconvening of the Senate, then the notification considered a nomination that permitted the acting officer's service shall be treated after the second day the Senate reconvenes as a withdrawn nomination is treated under this legislation.

The effective date of this portion of the bill is 30 days after the date of its enactment. For any vacant office as of the date of enactment, the time limitations under § 3346 apply as if the office became vacant as of the effective date of this section.

If the President nominates a person after the effective date of this section for an office to which that person had been nominated before the effective date, that second nomination will be treated as a first nomination under this section.

All other changes are intended to be purely technical.

Mr. BYRD. Mr. President, the United States Constitution contains two options providing for the appointment of the principal officers of our federal government. First, the Appointments Clause, found in Article II, section 2, clause 2, states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint'' such officers. Alternatively, should the Senate not be in session, Article II, section 2, clause 3, authorizes the President to unilaterally ''fill up all Vacancies that may happen during the Recess of the Senate,'' subject only

to the proviso that the recess appointment expires at the end of the next session of Congress.

As the Supreme Court pointedly observed in the 1997 case of Edmond v. United States, ''the Appointments Clause of Article II is more than a matter of 'etiquette or protocol'; it is among the significant structural safeguards of the constitutional scheme.''

With enactment of the Federal Vacancies Reform Act of 1998, an important step will have been taken toward securing the Senate's constitutional responsibility to render its advice and consent on presidential nominations. It is my hope that this legislation, which makes several substantive changes to the current Vacancies Act, will protect this vital constitutional ''safeguard'' by bringing to an end a quarter century of obfuscation, bureaucratic intransigence, and outright circumvention

Mr. President, because I am an original sponsor of the Federal Vacancies Reform Act, and because the Act as it is being enacted differs somewhat from the bill reported to the Senate by the Committee on Governmental Affairs on July 15, 1998, (S. Rpt. 105–250), I wish to offer my perspective on the Act's application, time limitations, exclusivity and exceptions, enforcement, reporting requirements, and effective date and application to current vacancies.

APPLICATION

Section 3345 states that the provisions of the Act will apply to any officer in any executive agency, other than the General Accounting Office, if that officer's appointment is made by the President, subject to the advice and consent of the Senate. Unlike current law, this change will make clear that the Vacancies Act, as amended by this legislation, applies to all executive branch officers whose appointment requires Senate confirmation, except for those officers described in Section 3349c.

Section 3345 applies when an officer dies, resigns, or is otherwise unable to perform the functions and duties of the office (the latter provision covers, inter alia, sickness or absence, which are listed in current law, or expiration of a term of office). Should one of these situations arise, the officer's position may then be filled temporarily by either: (1) the first assistant to the vacant office; (2) an executive officer who has been confirmed by the Senate for his current position; or (3) a career civil servant, paid at or above the GS–15 rate, who has served in the agency for at least 90 of the past 365 days. However, a person may not serve as an acting officer if: (1)(a) he is not the first assistant, or (b) he has been the first assistant for less than 90 of the past 365 days, and has not been confirmed for the position; and (2), the President nominates him to fill the vacant office.

TIME LIMITATION

Section 3346 places a strict time limit of 210 days upon how long an acting officer may serve. As the language of this section make abundantly clear, the time limit begins on the day the position becomes vacant, and not on any other date. The precise language that was used in the Act will correct the decision of the D.C. Circuit Court of Appeals in *Doolin Security Savings Bank* v. *Office of Thrift Supervision*, 139 F.3rd 203 (D.C. Cir. 1998). If, however, the President forwards to the Senate a first or second nomination to fill the vacant office, the acting official may continue to serve until 210 days after the nomination is rejected by the Senate, withdrawn, or returned to the President by the Senate.

With respect to this time limitation, section 3349d further provides that the vacant office may be temporarily filled beyond the 210-day time limit if, during a recess or adjournment of greater than 15 days, the President formally notifies the Senate of his intention to nominate a specified person for the vacant position, and, in fact, does submit to the Senate the nomination within two days of the end of the recess or adjournment. Should the President, for whatever reason, fail to forward the nomination, then any action taken by the acting official shall have no legal force or effect, nor shall that action be ratified. Moreover, such failure would render the position vacant as of the second day following the Senate's return.

Finally, on the issue of time, the Act, unlike current law, appropriately recognizes the difficulties faced by a new President following his initial inauguration. To address that situation, section 3349a provides that, with respect to any advice-and-consent position which becomes vacant during the first 60 days of the new President's term, the 210 day time limitation shall not begin until 90 days after the inauguration date, or 90 days after the date of the vacancy, whichever is later. Effectively, then, this provision will give a new President up to 300 days to forward nominations to the Senate.

EXCLUSIVITY AND EXCEPTIONS

Mr. President, turning now to the question of the exclusivity of the Act, I think it is a fair assessment of this entire issue to say that the matter of exclusivity is the bedrock point on which the executive and legislative branches have historically differed. Indeed, it is very likely that we would not be here today were it not for the differing interpretations as to the exclusivity of the Vacancies Act. And, without opening old wounds, suffice it to say that the problems that have heretofore been brought to the attention of Congress were not the fault of any one President, any one Attorney General, and certainly not the fault of any one political party. Accordingly, it is my fervent hope that the language of the Act will, once and for all, end this decades-long disagreement.

As the language of Section 3347 makes clear, unless other statutory provisions exist which explicitly authorize the temporary filling of vacancies in executive positions requiring Senate confirmation, or unless such provisions are enacted in the future, Sections 3345–3349d are to be the exclusive statutory means for filling vacant advice-and-consent positions in the executive branch.

Moreover, in an effort to squarely address past problems, the Act specifically prohibits the use of general, ''housekeeping'' statutes as a basis for circumventing the Vacancies Act. Provisions such as, but not limited to, 28 U.S.C. 509 and 510, which vest all functions of the Department of Justice in the Attorney General and allow the Attorney General to delegate responsibility for carrying out those functions, shall not be construed as providing an alternative means of filling vacancies.

Finally, Section 3349b makes clear that the Vacancies Act, as now amended, does not affect statutory holdover provisions. Nor does the Act, as explained in Section 3349c, apply to members of independent, multiple-member boards or commissions, to commissioners of the Federal Energy Regulatory Commission, to members of the Surface Transportation Board, or to any judge of any court constituted pursuant to Article I of the Constitution.

ENFORCEMENT

Mr. President, with enactment of this legislation, the Vacancies Act will, for the first time ever, contain an effective enforcement mechanism. As spelled out in Section 3348, failure to comply with Sections 3345, 3346, or 3347 shall result in a vacant office remaining vacant, and no-one, other than the agency head, may perform the functions or duties that are assigned by statute or regulation to that office exclusively. An action taken by an acting official who is not in compliance with Sections 3345, 3346, or 3347 shall have no force or effect and may not be subsequently ratified.

For those who are concerned with this provision, I would point out that, while this is an effective, and admittedly tough enforcement mechanism, it is not so stringent that it will result in governmental paralysis. On the contrary, not only is the head of the agency authorized to carry out the most essential functions of an office forced to remain vacant due to noncompliance, but the language of the legislation is crafted in such a way as to allow for the filling of a vacant office once the President submits a nomination to the Senate. In that respect, then, the enforcement mechanism should not be considered, nor is it intended to be, a form of punishment, but, rather, a means of providing incentive for the timely submission of nominations.

REPORTING REQUIREMENT

Because one of the keys to exacting compliance with the Vacancies Act is full and complete disclosure of information regarding vacant positions, Section 3349 establishes a provision for the regular reporting of information.

Under this section, the head of each executive branch agency shall, at the appropriate time, submit to the Comptroller General and to each House of Congress the following information: Notification of any vacancy in an office subject to the Vacancies Act; the name of the person serving in an acting capacity and the date such service began; the name of any person nominated for the vacant position and the date such nomination was submitted to the Senate; and the date the nomination was withdrawn, rejected by the Senate or returned by the Senate. If the Comptroller General, once he has received the relevant information, determines that an individual is serving in an acting capacity beyond the 210-day time limitation in violation of the Vacancies Act, the Comptroller General is required to notify the Senate, the House of Representatives, various committees of the two Houses, the Office of Personnel Management and the President.

Mr. President, although these may seem to be rather routine procedures, in this case they are vitally important, because one of the great difficulties in crafting this legislation has been the absence of reliable information. However, with these reporting requirements, the Congress and the executive branch will be in a far better position to objectively evaluate the operation of the Vacancies Act, and, should this issue require further review, will be prepared to discuss the matter based on reliable data.

EFFECTIVE DATE AND APPLICATION TO CURRENT VACANCIES

Finally, let me address the matter of the Act's effective date and application. First, as the legislation makes clear, the Act will take effect 30 days after the date of enactment. Next, the Act, and all of its provisions, will fully apply to any position which becomes vacant after the effective date. Third, with respect to those positions that are vacant on the effective date, or those positions which are being filled by an acting official on the effective date, only the time limitations of section 3346 shall apply. None of the other provisions of the Act (including, but not limited to, the length of service requirements contained in section 3345), shall apply to those individuals currently serving in an acting capacity. Lastly, the Act makes clear that, notwithstanding the fact that an individual may have previously been nominated, the next nomination of that individual will be treated as a first nomination for purposes of the Vacancies Act, as amended.

Mr. President, that concludes my remarks on the meaning and intent of the various provisions of the Federal Vacancies Reform Act of 1998. However, I would like to take a moment to extend my congratulations and my sincere gratitude to Senator THOMPSON, the distinguished chairman of the Committee on Governmental Affairs, for all the time and effort he has put into this endeavor. I also wish to thank the Democratic members of the committee—in particular Senators GLENN, LEVIN, LIEBERMAN and DURBIN—for their willingness to see this legislation through to completion. It was not an easy task, and I commend them all for their hard work. Despite the difficulties, though, I hope they will agree that securing the rights of the Senate, and thus the integrity of the U.S. Constitution, is a task that bears doing no matter how demanding it may be.

WOMEN'S HEALTH CANCER RIGHTS ACT OF 1998

Mr. D'AMATO. Mr. President I rise today to applaud this body for passing perhaps one of the most critical pieces of legislation this Congress. Today, before the Senate, in the omnibus appropriations bill, is the Women's Health and Cancer Rights Act of 1998, or more appropriately, Janet's Law.

Mr. President, I first began the fight to pass this critical legislation on January 30, 1997 when I introduced this legislation along with Senator DIANE FEINSTEIN, Senator OLYMPIA SNOWE, Senators HOLLINGS, MOYNIHAN, DOMENICI, FAIRCLOTH, MOSELEY-BRAUN, BIDEN, INOUYE, MURKOWSKI, DODD, KERREY, HATCH, GREGG, SMITH, and FORD.

We faced an uphill fight, but we were persistent. We never gave up.

We couldn't—Mr. President, there was too much at stake. We took on this fight for the women of America—our mothers and daughters, sisters and wives, grandmothers and friends. We took on this fight because it was critical to the health of every woman in America.

Today, there are 2.6 million women living with breast cancer. In 1998 alone, more than 184,000 women will be diagnosed with breast cancer and, tragically, 44,000 women will die of this dreaded disease. Breast cancer is still the most common form of cancer in women; every 3 minutes another woman is diagnosed and every 11 minutes another woman dies of breast cancer.

I want to tell you, Mr. President, about one of those women, because the battle against breast cancer is not about statistics—it's about real women who are in the fight of their lives. Janet Franquet, a young woman, just 31 years old, from my home state of New York was recently denied reconstructive surgery following a mastectomy.

Janet Franquet was diagnosed with an extremely aggressive form of breast cancer on December 11, 1997. Mrs. Franquet required a mastectomy and a very intricate, involved reconstruction of the breast following her mastectomy. The wound site required her surgeon to perform a very extensive procedure, medically necessary due to the considerable wound site after the removal of her breast.

Mrs. Franquet's insurance provider, the National Organization of Industrial Trade Unions (NOITU) Insurance Trust Fund refused to cover the reconstruction of Mrs. Franquet's breast. Imagine the shock and horror of being told by your HMO that surgery following the removal of your breast is cosmetic. That is outrageous.

In fact, when the surgeon performing the reconstruction asked about coverage, the Medical Director of the insurance company told Mrs. Franquet's doctor that breast reconstruction was considered cosmetic surgery, and he would have to deny coverage.

So, Mr. President, I decided that I would give Mrs. Franquet's insurance company a call. When I spoke with the Medical Director for the insurance company, he told me that ''replacement of a breast is not medically necessary and not covered under the plan. This is not a bodily function and therefore can not and should not be replaced.''

Mrs. Franquet and her family, were left to pay for the procedure out of their own pocket. The procedure cost approximately $16,500. Luckily, her doctor, Dr. Todd Wider, agreed to forgo payment for this life saving surgery. But recently, the insurance fund agreed to pay for the surgery—only after a lengthy appeal before the Board of Directors with lawyers and doctors testifying as to the medical necessity of the surgery.

I ask you, Mr. President, how many other Janet Franquets are out there? Will they be lucky enough to have a Dr. Wider to take care of them, or will they be forced to forgo this lifesaving surgery so that insurance companies can cut costs and save money?

That is why, Mr. President, I began this fight in the Senate and made it my crusade every day, at every opportunity. The D'Amato legislation which we will enact into law today makes critically important changes in how breast cancer patients receive medical care.

This important reform legislation will significantly change the way insurance companies provide coverage for women diagnosed with breast cancer. This new law will ensure that breast cancer patients will have access to reconstructive surgery following mastectomies. Too many women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure cosmetic and not medically necessary. It is absolutely unacceptable and wrong that many insurers have decided that this essential surgery is ''cosmetic.''

I know that there are going to be those who say let the marketplace work, let free competition work. Well, that is simply naive. To say that by insisting on a minimum standard, insisting on basic commonsense minimums we are interfering with the free market system is preposterous. For the government to not live up to its most basic duty of protecting its citizenry, that is what is wrong.

There exists a very basic relationship between a doctor and a patient that no Member of Congress and no insurance bean counter can ever understand.

That bond is so basic and so sacred that it is only the physician who is treating their patient who can truly understand it. It is only that physician who can truly determine the best course of action for their patient and knows how to save their life. Congress has a duty to protect that bond and ensure that the physician is able to practice medicine.

This legislation is crucial not only for the women of New York, where breast cancer ranks among the top in the Nation, but for the entire country as well. Our families have been ravaged by this horrible disease. Our grandmothers, mothers and daughters, sisters and wives, children and friends have been afflicted at rates that are unexplained and far too high.

We must continue to work together, on a bipartisan basis, to find a cure for breast cancer. But until a cure is found, we must ensure that women receive the treatment they deserve. This legislation protects women and the families and friends of women who have been diagnosed with breast cancer.

Mr. President, I ask unanimous consent that this bill be recognized as Janet's Law, after Janet Franquet, the woman who was the inspiration for this bill and who in fact serves as a heroine to many women who were denied reconstructive surgery prior to her. Thanks largely to Mrs. Franquet's efforts and determination in this issue, no woman will ever be denied reconstructive surgery again. Janet's case has served as an inspiration for me to keep fighting in the war against breast cancer and should be an inspiration to every Member of Congress.

I thank all my colleagues for helping me pass this critical legislation, and I thank the Chairman of the Appropriations Committee, chairman STEVENS and the majority leader, Senator LOTT for their hard work in ensuring the protection of American women who have been afflicted with breast cancer.

THE NEED TO TRACK FORMER TANF RECIPIENTS

Mr. WELLSTONE. Mr. President, today, I would like to call attention to a small but very important issue that was not addressed in the appropriations bill that was considered today. In short, Congress has not provided the necessary funding to HHS to track what happens to families who have been dropped from the welfare caseloads.

Back in April when the Senate passed the budget resolution, it included an amendment that I offered directing HHS to determine whether former welfare recipients are achieving ''economic self-sufficiency'' once they stop receiving benefits. But a budget resolution was never adopted by Congress. I ask all my colleagues, why don't we want to know what is happening to families after they leave welfare? Are we afraid of what we might find?

So many of my colleagues keep talking about the success of reform, citing the dramatic drop in the number of caseloads. But I ask you, do we know where those families are? Are they better off? Have they achieved economic self-sufficiency? Or are they more deeply enmeshed in poverty? Why are we not interested in finding answers to these questions? As policy makers it is our duty and our responsibility to make sure that the policies we enact for the good of the people actually are doing good for the people. But if we don't go and find out how they are actually affecting families, how will we know? We need to put in place the means to address these very critical questions, and directing HHS to set up a means of evaluating what happens to families is the most common sense way to approach this issue.

Evaluation is one of the key ingredients in good policy making and it does not take a degree in political science to realize what anyone with good common sense knows: if we want to try something new, we need to assess how that new program works. Now when Congress enacted welfare reform, the goals as I understood them were to move people off of welfare and dependency and into jobs and economic self-sufficiency. The dropping number of caseloads implies that we have met only part of the first goal—moving families off of welfare. But eliminating dependency and achieving economic self-sufficiency through a job that supports a family are effects that can only be determined over a longer period of time. As policy makers—regardless of ideological stripe—it is our role to ensure that the programs that Congress enacts to provide for American families' well-being are effective and produce the goals we intended them to. We need to know what is happening with the families who are affected by the new reform, whether it is in fact effectively helping low income mothers and their children build a path to economic self-sufficiency.

What we do know, what everyone knows is that the caseloads have dropped dramatically—1.3 million families have left welfare since August of 1996 alone, that is 4.5 million total recipients including mothers and their children. But what that number tells us is only a snapshot of the broader picture.

I want to take a moment to talk about this number and what it tells us. First of all, we have to recognize how naive it is to assume that all 1.3 million of those families are finding jobs and moving towards a life of economic self-sufficiency, because that number only tells us about families that have been dropped from the caseload—and families drop from the caseloads for many different reasons. A family may lose their benefits due to sanctions, or they may leave welfare on their own, for many reasons which we do not know. Even more troubling is that although the number of families receiving welfare has declined, indicators of poverty have not shown a similar or equal rate of decline, which means that many families who are eligible for assistance are not even applying.

Even among families where the parent has found a job—because without it they would not be receiving any assistance—we know very little. We do not know how long those jobs are lasting or whether they are the kind of jobs that will put families on a path to economic self-sufficiency. Just because a parent finds a job does not mean that the family is no longer poor. Getting a job that pays a family wage, that enables a mother to provide a life for her children that lifts them all out of poverty does not happen overnight. We need to know what happens to families 6 months, 12 months, even a couple of years down the road. And we do not know that.

No one seems to know, even those members of Congress who keep trumpeting the ''victory'' of welfare reform. Just a few weeks ago, in the Conference Committee for the Higher Ed. bill, I asked my colleagues if they knew of any research demonstrating that these 1.3 million families had indeed achieved economic self-sufficiency and no one had an answer for me. No one! Let me just say that accepting a very narrow measure of what has happened to 1.3 million families is no victory in my book.

Each family is more than a number, more than another tally mark to be added to that statistic of 1.3 million caseloads. Adding up that tally does not answer critical questions. Questions like why did that family stop receiving benefits? Was it due to an increased income from the mother's job? If yes, then what kind of wages is that mother now making? Does she have a job that is going to enable her to continue to provide for her family, or will the next crisis of a sick child, a broken down car, or some other unforeseen problem push her back to needing assistance? We have very little information about the situations of these 1.3 million families. We are in the dark because we turned off the lights.

Now, let me back up a minute and provide my colleagues with some background on this issue of asking the necessary questions about the impact of welfare reform. Requiring states to evaluate the impact of new welfare policies is not new. Not at all. In fact, prior to enacting the 1996 reform, all states that applied for a waiver to try an experiment with their AFDC program—and 43 out of 50 states had been granted waivers by 1996—were required under the regulations of the waiver to hire an outside contractor to evaluate the impact of their new program. For example, in Minnesota, two of the primary criteria for evaluating the programs were whether the program ''helped families increased their income and self-sufficiency'' and ''supported families' movement toward self-support.''

But when Congress enacted TANF, states were no longer required to continue those evaluations. In fact, 24

states stopped the evaluation process altogether, and only 19 have applied for funds to continue those evaluations. That means that over half of the states ended their project evaluations when Congress dropped the requirement to assess the impact of reform.

Of course these projects that I have just mentioned are not the only evaluations of the new reform. When states begin to apply to HHS for the $1 billion in bonus money for successfully moving families into self-sufficiency, they will be required to report on the status of both current and former recipients. Then, HHS will have some information about what is happening. But that information will not be available until at least the Fall of 1999.

Last year Congress considered this issue important, since we specifically earmarked $5 million in the FY98 Labor-HHS appropriations for HHS to give to states interested in doing their own tracking studies. And just a few weeks ago, HHS announced it had awarded grants to 13 state and county projects to track ''leavers''—those who have been dropped from the caseloads due to increased earnings or sanctions, and those who have not even applied for assistance even though they are eligible. This is an example of responsible policy making, and I will be very interested in the outcomes of these evaluations. But in a year's time, these 13 projects will be cut off at the knees. These projects will be unable to complete their planned evaluations because they will not have the necessary funds. Why? Because Congress has failed to appropriate similar funds for FY99. I ask you again, what are we afraid of?

We do have some information, but it is not very helpful. You might not want to know about it, but I'm going to talk about it anyway, because I want to illustrate that what information we do have is very, very limited.

Recently released reports give us some idea of what is happening, but there are huge holes in what we do know. The good news is that many states—31 according to the National Conference of State Legislatures—are conducting various types of tracking studies on their own. The bad news is that these studies are wildly diverse in terms of who they track, how long they track recipients, and when their reports will be available to the public.

Let me just give you a snapshot of what this kind of tracking system looks like. The studies run the gamut from those examining all closed cases, to only sanctioned cases, to cases closed due to increased earnings, to families diverted from ever applying for assistance. And the time frames of the studies range from 6 months to five years and everything in between.

But the really frustrating thing about what appears to be a potential wealth of data is that there is no central clearinghouse for it. As I mentioned before, HHS received a special $5 million appropriation for FY98 to fund some tracking studies. But the funds were only to provide help to states to do their own tracking. It did not provide funds so that HHS could act as a central location for analyzing the results of these studies. So, while I was glad that Congress committed necessary resources to studying what happens to families after they leave welfare, that is only part of the job. We need an efficient means of analyzing the information that we do collect, and directing HHS to serve as a central clearinghouse would have been the best way of doing that.

There are other problems with this scatter-shot approach to tracking. One of them is that it does not allow us to trace what happens to families that get sanctioned. Do they get caught up in a ''churning'' cycle, getting sent to the end of the line, deepening the hardship of an already poor family? One study in Iowa of families that had been sanctioned found that only 30% were working 30 hours a week or more and almost half of them had experienced a dramatic decrease in their income (over $380 per month).

From several studies, in New Jersey, Iowa, and Tennessee, it seems that many families who are being dropped from welfare due to sanctions are turning to other family members for assistance. A study in New Jersey showed that almost 50% of the families that were sanctioned and lost their benefits turned to family for aid; in Tennessee, 71% sought help from other family members. While I understand the intent of welfare reform was to decrease families' dependency on welfare, I do not think—and I am confident that my colleagues agree—that it was Congress's intent to shift the burden of assistance to other low income families who are just keeping their own heads above water.

Families that get sanctioned are at least within the state's data base and are easier to track. The groups that we really know very little about are those families in need who never even make it onto the official welfare roles. Many families are discouraged from even applying for aid or get diverted by receiving a lump sum of 2 or 3 months of benefits. In New York City—in Brooklyn and Queens—the primary goal of city welfare offices, according to its official manual, is to discourage families from even applying for assistance by encouraging them to get a job or depend on relatives.

While this may initially save the state money and reduce its caseloads, shifting the need of mothers and their children to other family members spreads individual resources more thinly and risks expanding the number of families in poverty. More disturbing is that this phenomenon does not appear to be only happening in New York. I think this is a very troubling trend that seems to be attached to these groups, one that I want to bring to my colleagues' attention because I think it will have greater implications for all low-income working families.

As I have mentioned, very little research looks at the long term impact of reform, and most of the studies I have mentioned above are short-term studies. But a program in Oregon is often cited as one to emulate. I would like to take a moment here to tell my colleagues about this particular program, because I think this case shows us the importance of getting more information than just the number of recipients dropped from the caseloads.

Unlike other welfare to work programs that focused on recipients just getting a job—any job—the Portland program provided really strong support services to help families find a ''good'' job, a full-time job that paid above minimum wage, included medical benefits and the potential for advancement. The way that the Portland program did this was to take a ''mixed services'' approach. And what that translates into is what I would think would be a good job search program for anyone, whether they were on welfare or not.

First, staff assessed the skills and interests of recipients, and then they worked closely with individual recipients to help them plan a strategy for getting what they needed to find a good job. Those folks that needed educational or vocational training were sent to do that. Training also included programs that helped parents who needed some life skills training to improve their employability. And as recipients were participating in these programs, program staff worked closely with local companies and employers to match recipients with good jobs where they would succeed.

For many families, this approach worked to get them jobs that did pay higher than the minimum wage at the time ($4.15), and many were still at their jobs at the end of two years. But, there is a finer point that needs to be made about what appears to be good news in this study. The jobs that parents got were higher than minimum wage, but they were still only $6 an hour at the most. Well, that just isn't enough for a family of three—a mother and two children, which is what the average family on welfare consists of—to make ends meet. And the bigger downside is that although many families were able to leave welfare, 40% of families were still receiving cash assistance at the end of two years.

Even if we were to be optimistic about the potential for these $6 an hour jobs to translate into job advancement and greater earnings, what about the other 40% who still needed cash assistance? We cannot be celebrating welfare reform as a ''success'' when so many former recipients have jobs that only move them to just beyond the eligibility line for cash assistance but do not set them on that path to economic self-security. And, probably more importantly, we need to know more about the specific barriers that keep those 40% of families from getting a ''good job'' too. We just cannot walk away from them.

As I mentioned, the program in Portland is unusual compared to other welfare-to-work programs. On the other end of the spectrum are programs like Wisconsin Works, better known as W–2. With the W–2 program, the basic premise is that parents will not get cash assistance unless they are working. This kind of program moves parents into the work force very quickly, because they need that cash assistance. But what a recent study of Milwaukee families found was that even though parents are getting jobs quickly, 6 months later three quarters of them were no longer employed. And of those parents who did get jobs, only 14% were getting paid full time wages. That means that less than 2 out of 10 families had a parent who was working full time.

This is very disturbing information. What is happening to these families who are getting pushed into the work force so quickly that they are not given the opportunity or the training to find jobs that are more likely to translate into sustained, full-time employment. Based on this study, it is very clear to me that we as policy makers definitely need to know about how other ''work first'' approaches are affecting families. When less than 2 out of 10 families has a parent bringing home a full time wage, there are a lot of families who are not making ends meet, and that is not a success in my book.

Looking at the administrative side, we know that since the caseloads have dropped dramatically, states have more funds available to provide support services to families trying to find jobs. However, the 1.3 million drop in caseloads is only a drop in the number of families receiving cash assistance; many of those families are still receiving other support services such as subsidized child care, transportation, housing and medical care. When the labor market hits a downturn—which is the direction it appears to be heading—and many families are forced to return for cash assistance, what will happen to the states' ability to provide these support services necessary to put those mothers back in the workforce? There is much uncertainty about the future and we are doing little to reduce it.

Even those of my colleagues who supported the 1996 welfare reform bill must recognize Congress's important responsibility of finding out what is happening to those 1.3 million families who have been dropped from the roles. Reform is not a one-shot deal. Real reform involves long term oversight to insure that policies benefit all parties: states and poor mothers and their children.

I have always said, the true test of welfare reform will come in the austere economic times, when many more families will need it most. Will we wait until folks are again in dire straits before we begin to gather information about how to correct the programs that we have just reformed? Are we really going to allow ourselves to be so short-sighted? Or will we recognize that our responsibility to enact good policies that protect our most vulnerable populations such as poor mothers and their children is intrinsic to our duty as good and effective policy makers. Not until we are sure that this reform has accomplished all of its goals—eliminating dependency and helping families to establish and maintain economic self-sufficiency—can we truly claim that this reform is good and sound policy for all.

Mr. FRIST. Mr. President, I rise today to express my deep concern for some of the provisions in the omnibus measure that we have passed today. I voted for this bill because I believe that there are some very good provisions in it, and, on balance, I think it serves the American people well. It reenergizes our national drug control effort. It tries to boost the morale and readiness of our armed forces, rather than continuing the dangerous trend toward a hollow military. It helps protect citizens' second amendment rights. It prohibits Federal funding of needle exchanges. The bill retains language blocking Members of Congress, judges and members of the Federal executive service from receiving a cost-of-living increase. There is a one-year moratorium on Department of Education-sponsored national testing. I voted for this bill because I have been assured that we have stayed within the budget caps.

I am concerned, however, about the integrity of the budget and appropriations process and the classification of emergency spending that has prevailed in this omnibus measure. Other Senators have spoken here on the Senate floor about the dereliction of congressional duty in failing to pass 13 individual spending bills during this year's session of the Senate. Instead, because of partisan politics, we are here passing a massive spending bill that rolls eight appropriations bills into one large catch-all bill, which also includes dozens of extraneous matters. If that is not bad enough, we have also included ''emergency'' spending to the tune of more than $20 billion.

This spending is considered outside of the budget and therefore not subject to the budget caps. What this means, however, is that this $20 billion comes directly out of the budget surplus. It is sometimes necessary to appropriate funds for emergencies like hurricanes, floods or other natural disasters. I am disappointed, however, that we have appropriated billions of dollars for things that can hardly be considered emergencies. Our troops have been in Bosnia for three years—is this a surprise? The Year 2000 problem? With foresight, we could have planned for this through the regular appropriations process rather than designating it as an emergency. So instead of making room for these spending priorities, the President has declared them emergencies and instead of imposing fiscal discipline, he—and we—have used the surplus that the President demanded be saved for Social Security to pay for them.

As a member of the Senate Budget Committee, I think it should be our first priority next year to examine how we classify emergency spending. No longer should the Congress—or the President—be allowed to spend our budget surplus for matters that should be paid for through the regular appropriations process. Second, I would like to reiterate my support for Senator DOMENICI's biennial budgeting bill. It is at times like this that the need for biennial budgeting becomes even clearer.

Mr. President, as I said, this bill, though far from perfect, will work more good than mischief. There are real problems with this bill and the process that created it; however, we must sometimes accept that our system of government divides power between Congress and the President. The President's priorities differ from most of our priorities. In these circumstances, compromise must rule the day.

Mr. President, as a member of the Senate Budget Committee, I look forward to meeting our budgeting challenges when we return next year. I hope that we are able to continue on the course that we set last year when we enacted tight discretionary spending caps and charted a course toward a $1.5 trillion surplus. While I am concerned about the process that got us here today, I remain hopeful that we will take the necessary steps next year to keep us on our course toward fiscal responsibility and continued prosperity.

CHARITABLE GIVING INCENTIVE ACT

Mr. SMITH of Oregon. Mr. President, among the provisions included in the tax package we voted on today is a provision of great importance to the charitable giving community: an extension of the enhanced deduction for contributions of publicly-traded stock to private foundations. Although extending this deduction benefits many and is a useful tool for providing funds for charitable purposes, this deduction alone is not enough.

In this era of ever-tightening fiscal constraints, we have asked our communities to do more and more for those less fortunate. Charitable organizations in our communities have become an integral part of the safety net for the poor and homeless and significant sources of assistance for education, health care, child development and the arts.

To meet the increasing deficit in unmet social needs, the government cannot merely expect the private sector to fill the gap, but must provide the leadership for the use of private sector resources through changes in the Tax Code. One source of untapped resources for charitable purposes is the contribution of closely held corporate stock. Under current law, the tax cost of contributing closely held stock to a charity or foundation is prohibitive, and it

discourages families and owners from disposing of their businesses in this manner.

Earlier this year, I was joined by Senators FEINSTEIN, WYDEN, BAUCUS, and GORTON in introducing legislation that would provide an incentive to business owners to use their corporate wealth for charitable causes. S. 1412, the Charitable Giving Incentive Act of 1998, would permit a closely-held business to transfer its assets into a 501(c)(3) charitable organization without paying the 35 percent corporate level tax. Thus, the recipient charity would receive the full benefit of the gift. Identical legislation has also been introduced in the House by Representatives DUNN, FURSE, NETHERCUTT, HOOLEY, PAUL, and SMITH of Oregon.

In addition to this bipartisan congressional support, we have garnered support from the charitable community. It is my intention to reintroduce this legislation in the 106th Congress, and I look forward to working with the Finance Committee Chairman ROTH, Ranking Member MOYNIHAN and my Senate colleagues to legislate changes that will make it easier for the citizens of this country to give to charitable causes.

Mr. President, I ask unanimous consent that a letter from organizations supporting the legislation be printed in the RECORD.

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

OCTOBER 9, 1998.

Senator WILLIAM ROTH,
Chairman, Senate Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

The undersigned organizations are all tax exempt 501(c)(3) charitable entities, or representatives thereof, whose efforts are dependent upon the charitable giving of concerned individuals. With the needs of our communities growing, and in some cases the financial support from government agencies diminishing, many endeavors are increasingly reliant upon a core group of concerned, consistent, and active givers. It is important to encourage and reward the selfless sharing by this group and to expand its membership.

Accordingly, we support legislation that has been introduced in this Congress to provide tax incentives for the donation of significant amounts of closely-held stock. H.R. 3029 and S. 1412, the Charitable Giving Incentive Act, would permit the tax-free liquidation of a closely-held corporation into a charity if at least 80 percent of the stock of the corporation were donated to a 501(c)(3) organization upon the death of a donor. Thus, the 35 percent corporate tax that would otherwise be paid is not imposed: all of the value of the contribution would go to charitable purposes. This is the same tax result as would occur if the business had been held in non-corporate form.

The current disincentive for substantial contributions of closely-held stock should be corrected at the earliest opportunity. We believe such a change would encourage additional transfers to charity because the donors will see more of the benefit going to the charity and not to taxes. We hope that appropriate tax incentives will encourage more families to devote significant portions of their businesses, and their wealth, to charitable purposes.

As a key member of Congress, we urge your active support for this effort to expand charitable giving by individuals and businesses. The needs are great. While government cannot do it all, it can provide leadership for others to do more by removing current impediments. Your support and assistance are needed. Thank you for your favorable consideration of this request.

Sincerely,

Council on Foundations; Council of Jewish Federations; The Children's Foundation; The National Federation of Nonprofits; and The National Community Action Foundation.

Mr. SMITH of New Hampshire. Mr. President, I voted against the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999. One of the principal reasons why I voted against the bill is that it does not include two critically important provisions of the Smith amendment to the Commerce, Justice, State appropriations bill that passed the Senate on July 21, 1998, by a vote of 69–31. The Smith amendment provided major protections of the rights of law-abiding gun owners under the second amendment to the Constitution of the United States.

As passed by the Senate last July, the Smith amendment included three major provisions. First, the Smith amendment prohibited the Federal Bureau of Investigation from charging a user fee or ''gun tax'' for the so-called Brady handgun National Instant Check System (NICS) that will go into effect later this year. Second, the Smith amendment required the ''immediate destruction'' of all records related to gun purchasers who are determined by the system to be legally entitled to buy a gun. Third, the Smith amendment created a private cause of action on the part of any individual gun purchaser who is the victim of a violation of either or both of the first two provisions of the amendment.

Unfortunately, Mr. President, only the first provision of the Smith amendment remains intact in the final version of the omnibus appropriations bill. Although I am pleased that the FBI's gun tax scheme is now dead, I am deeply disappointed that those who negotiated this bill with the administration have ignored the legislatively expressed will of 69 United States Senators by rendering all but meaningless the second, and eliminating altogether the third, provisions of the Smith amendment.

The omnibus appropriations bill replaces the Smith amendment's requirement for the ''immediate destruction'' of records on law-abiding gun owners with one that only requires ''destruction'' of such records. Thus, the bill leaves open to question just how long the FBI may lawfully retain such records.

Although the omnibus appropriations bill does not include the Smith amendment's language explicitly creating a private cause of action, I believe that the bill retains an implied cause of action. Assuming that the courts will interpret the new law in a manner that gives full effect to legislative intent, judges will recognize such an implied cause of action on the part of gun owners to sue in Federal court in order to protect their rights under the Smith amendment.

Mr. President, early in the 106th Congress next year, I will be introducing legislation encompassing all of the protections of the Smith amendment for which 69 Senators voted last July.

Mr. GORTON. Mr. President, I voted in favor of the omnibus appropriations bill this morning, but I did so with some reluctance. While I am marginally pleased with this bill's contribution to education and defense, my primary concern is the $20.9 billion in emergency spending included in this bill that further jeopardizes the Social Security trust fund.

In July, the Congressional Budget Office predicted the Federal Government will run a $63 billion surplus in 1998 if the Social Security trust fund is included in the budget calculations. We still run a $41 billion deficit, however, if the surplus in the Social Security trust fund is excluded. The Federal Government will not run a surplus without the inclusion of the Social Security trust fund until 2002, when CBO expects a $1 billion surplus. By 2008, the surplus will rise to $64 billion, without counting the Social Security trust fund.

However, the omnibus appropriations package includes $20.9 billion in emergency spending—spending outside of the caps established in last year's balanced budget agreement, spending that is not paid for with offsets in other government programs.

So how are we paying for $20.9 billion in emergency spending? We're using money from the surplus—a surplus that doesn't exist yet unless we include the Social Security trust fund in our calculations.

I am dismayed by this outcome, especially when I recall the way we started this year. The President urged Congress to ''Save Social Security First'' during his State of the Union Address in January. In late April, the President again stated, ''I will resist any proposals that would squander the budget surplus, whether on new spending programs or new tax cuts until Social Security is strengthened for the long-term.''

Apparently, the President is ignoring his own advice. During negotiations over the appropriations package, the President pushed for $20 billion in so-called emergency spending. He did not propose to offset this spending with cuts in other Government programs. In fact, by categorizing his spending requests as ''emergencies,'' he plans to spend a large part of the surplus he himself designated for saving Social Security in January.

Frankly, I question the legitimacy of the ''emergencies'' identified by the President—the year 2000 computer problem, military responsibilities in Bosnia, and the decennial census.

These so-called emergencies have been on the radar screen for years. Unfortunately, the President failed to place a priority on these challenges when he gave Congress his budget in February.

Now we have several ''emergencies'' for which the President is willing to dip into the surplus he deemed sacred in January—a surplus that does not exist unless we tap into the Social Security trust fund.

Unfortunately, Congress capitulated to the President's inconsistent demands and policies. Today we approved a spending package that dips into the surplus that should be used to reform Social Security—a surplus that only exists with the current, but temporary, surplus in the Social Security trust fund.

Social Security reform is expected to top next year's congressional agenda. Unfortunately, this spending package starts us off on the wrong foot.

The President is willing to stick to his commitment to ''Save Social Security First'' when he wants to deny taxpayers tax relief. However, the surplus appears to be fair game when we are unwilling to make the tough choices needed to fund reprogramming government computers for the Year 2000, our continued military presence in Bosnia, or a responsibility as old as the Constitution—the decennial census.

Finally, I would like to stress my sincere hope that Congress and the President will engage in a constructive and honest debate over how to reform the Social Security system next year. We can't politicize this issue—our children and grandchildren depend on an honest and bipartisan reform of a system that will not meet its obligations for the next generation of retirees.

After declaring Social Security a priority during the State of the Union Address, the White House fell silent—invoking the famous pledge only when politically expedient. After President Clinton's speech, a number of my colleagues on both sides of the aisle have made tough choices and released Social Security reform packages. The White House must engage in this process. We do need to save Social Security first.

While I admit that I do not approve of the manner in which the emergency spending was added to this bill, I am pleased that it provides a much needed additional $7.5 billion for the Department of Defense to ensure the readiness of our nation's armed forces, to tackle the Y2K problem and sets aside funding for a ballistic missile defense. After 14 straight years of declining defense spending, the readiness of U.S. Armed Forces is clearly at risk.

By 2003, active duty military personnel strength will decline almost in half from 2.2 million to 1.36 million, the number of active Army divisions will drop from 18 to 10, the number of Navy ships will drop from 569 to 346, and the number of Air Force fighter wings will be decreased from 25 to 13.

At the same time, we are spending more of our defense resources on peacekeeping missions and our military personnel are spending more and more time on overseas deployments and less time training. If this trend continues it is unlikely the U.S. armed forces will not be the preeminent military force they were during the gulf war.

Unless we take action now to modernize our weapons systems, aircraft, and ships, other nations may catch up to the U.S. technologically, placing our military personnel at greater risk and eroding the tactical advantages they enjoy on the battlefield today. We must work to ensure that our fighter planes, tanks, submarines, and missiles are the best in the world.

This bill provides $1.1 billion to fund urgent readiness shortfalls in the services, such as flying hours, spare parts, depot maintenance, personnel recruiting and retention initiatives.

One billion is also set aside for a strategic anti-ballistic missile defense system. I'm pleased that appropriators recognized this priority as rogue states aggressively pursue the acquisition of nuclear and chemical weapons technology. It is disappointing that the efforts of my colleague Senator COCHRAN to pass legislation to establish a National Missile Defense system has failed two times this year by a margin of only one vote.

Not surprisingly, education was another issue the White House demagogued in this process for political purposes. This is a debate I personally welcome. This year's spending negotiations drew a bright line between the President and Republicans. The amount of money was never an issue. In fact, our budget agreement matched dollar-for-dollar the President's request for education spending. The debate was not about money—but about who gets to spend it.

Some Republican priorities were clearly represented in the omnibus package. This bill includees a $32.7 billion investment in our children's education; $91 million more than the President requested for disadvantaged students and $500 million more than the President thought we should spend on special education. And this bill includes $1.2 billion for school districts to hire new teachers.

This last program, providing new teachers for our nation's schools provided a real opportunity to debate the fundamentally different approach Republicans and Democrats have toward our nation's schools. Who do you trust with our children's education? Bureaucrats in Washington DC? Or those who know our children by name—their parents, teachers, and locally elected school board members.

Through this process it was clear that the President simply wanted to repeat the pattern of more top down control from Washington DC, new rules and regulations, more bureaucrats and more paperwork meaning that less money reaches our nation's classrooms.

According to the House Education at the Crossroads report, we already have some 760 Federal education programs, requiring over 48.6 million hours worth of paperwork per year. Both the House and Senate recognize that we simply cannot continue to add to that burden. Earlier this year both bodies approved measures which would radically change the way education funs are spent. The House approved the Dollars to the Classroom Act on September 18, 1998 and the Senate approved my block grant approach earlier this year on the Coverdell education savings account bill. Both proposals support the same philosophical approach, education decisions should be made by those closest to our children—their parents, teachers and locally elected school board members—not Washington, DC bureaucrats.

This new initiative to hire teachers represents a first step toward trusting local decisions regarding our children's education. Republicans were responsible for making sure that 100% of this new money would be spent by our local school districts not by Federal or State bureaucrats. Schools will be able to hire teachers for any grade, no matter where the need is and schools may hire special education teachers; neither would have been possible under the President's prescriptive proposal.

Importantly, few rules and regulations will accompany this new money. The President wanted to add this money to a program that already has 171 pages of ''non-regulatory guidance'' from the Federal Government. With the Federal Government providing only 6 percent of the funding for our local schools, and 50 percent of the regulation and paperwork—it was important that we not add to that burden. Republicans insisted that this new money be funneled through an existing block grant program.

In a 1997 State of Education speech, Secretary Riley said, ''* * * we should not cloud our children's future with silly arguments about Federal Government intrusion.''

But that is exactly what this debate was and is about—and it couldn't be more important. It will again be the focus of debate next year as Congress works to reauthorize the Elementary and Secondary Education Act.

I will continue to work in the 106th Congress to save Social Security and to restore authority over our children's education to those who are closest to our children—their parents, teachers, principals, and locally elected school board members.

Mr. BYRD. Mr. President, I expressed yesterday my abhorrence of the process that produced this behemoth Omnibus Bill. I said, however, that I would vote for it, because it contained some good things for the Nation. That is true, but I just could not do it. I cannot support such a twisting of constitutional intent and of the legislative process. Therefore, I voted no, so that I can sleep more peacefully tonight.

Mrs. MURRAY. Mr. President, earlier today, we passed an Omnibus Appropriations bill that expressed important

Congressional intent regarding the education of American children. By passing legislation to reduce class size in public schools, we are doing something concrete, common-sense, and effective to improve the quality of education across America. I am very proud of this Congress today.

But although there has been plenty of attention this last week devoted to the issue of class size reduction through helping local school districts to hire qualified teachers, I feel we are in danger of overlooking the true significance of the policy and funding we have passed here today.

By making this investment, which we will be increasing over the next several years, we are sending an important message to every community in this nation. The message is ''we have been listening. We have heard you. You've been saying that class size reduction is important because it makes a tangible difference in real-world public schools.''

This new law will not solve every problem in every school in America; that is not the appropriate federal role. Local communities make the decisions that improve local schools. The federal role is to support local decisions. I want people to know that Congress is finally listening; this place is starting to ring with your voice. This class size effort will help jump-start discussions in every local community and every state legislature—where the class size decisions that affect all schools will be made. And, this appropriations bill puts us all on the road to doing something tangible to helping the students in America's schools.

Some in Congress have made the argument: ''who do you trust to make decisions regarding the education of your children, your local educators and school boards, or some faceless bureaucrat in Washington, D.C.?''

For 5 years, I was a school board member in the Shoreline School District. I saw first-hand how every decision gets made in a school district, including how many teachers get hired, and what the budget will be for supplies, and what changes will be made to the bus schedule. And in those years and all the years since, I have heard local citizens say about the laws that affect their schools that they want their government to learn how to listen to the people it represents.

I have not heard people say that the government should walk away from its responsibilities, to support the children in public schools across America. I have not heard people advocate that the federal government should ignore its responsibility to prevent unfair treatment, or that it should ignore national priorities.

I have heard many times, however, parents and other local citizens ask very loudly for government to set goals, to get us on the right path, to do what works, to streamline its efforts, and to invest in common-sense solutions.

At the top of this list is class size reduction. Class size is common-sense, and it does work.

The research shows it:

A 1989 study of the Tennessee STAR program, which compared the performance of students in grades K–3 in small and regular-sized classes, found that students in small classes (13 to 17 students) significantly outperformed other students in math and reading, every year, at all grade levels, across all geographic areas.

A follow-up study of the STAR program in 1995 found that students in small classes in grades K–3 continued to outperform their peers at least through grade 8, with achievement advantages especially large for minority students.

Other state and local studies have since found that students in smaller classes outperform their peers in reading and math, perform as well or better than students in magnet or voucher schools, and that gains are especially significant among African-American males.

A 1997 national study by Educational Testing Service found that smaller class size raises average achievement for students in fourth- and eighth-grade math, especially for low-income students in ''high-cost'' regions.

Particularly of note in the 1997 ETS study was the finding that in eighth-grade, the achievement effect comes about through the better discipline and learning environment smaller class size produces. As policy-makers try to make decisions that will affect students in the critical years of middle-school, class size makes a difference in terms of both behavior and academic achievement.

In addition, state organizations representing thousands of local educators know that hiring more high-qualified teachers to reduce class size works:

Larry Swift, Executive Director Emeritus of the Washington State School Directors' Association says it well:

> As we pursue our state's goal of improving learning for all of our students, it becomes increasingly important that all of our resources be used efficiently and effectively. The most valuable resource in today's schools is the people who devote their time and effort to make schools successful—the teachers. Reducing the ratio of students to adults is particularly critical for youngsters with a variety of learning challenges that must be overcome if those students are to meet the new, higher learning standards.

Kenneth Winkes, with the Washington Association of School Principals says:

> It is increasingly evident that students entering our schools have diverse and unique needs which can only be addressed by principals, teachers, and support personnel who are not overwhelmed by crowded classrooms. Rather, educators must be able to devote attention to each student in smaller, more manageable classes.

Lee Ann Prielipp, President of the Washington Education Association says: ''When educators have too many students in a class, it is hard for them to give each student the individual attention that students need. It is this individual attention that is at the heart of the learning process, and it is crucial in helping our students succeed.''

And, as I've pointed out before, students themselves have thoughts about the importance of class size reduction:

Brooke Bodnar, age 16, recently moved from a school with larger classes to Olympia High School, which has smaller classes. She says: ''. . . with smaller classes I'm learning so much more. Class is going so much faster.''

Jared Stueckle, age 16, a junior at Selah High School, believes that education should be a higher priority in funding, and that class size is a good investment. Jared says: ''The classes in which the number (of students) is lower I generally do better, but in a crowded class, the teacher does not give us enough individual attention.''

Meghan Sullivan, age 15, a 10th grader at Tumwater High School, says: ''. . . reduction is needed especially at the K–5 grade levels. This is the beginning of their education and this is where they form study habits and learning skills, so it's more important to get some one-on-one contact with teachers.''

Antonella Novi, age 18, a senior at Anacortes High School, says:

''Smaller class sizes enrich the learning experience for the student and the teaching experience for the teacher.''

Jaime Oberlander, age 16, a junior at Tumwater High School, says:

''I know that I have learned more in smaller classes. I have a stronger relationship with the teacher. I am less intimidated to participate in class discussions or ask for help when I need it. I also receive more feedback from my teacher . . . my teacher can spend more time critiquing my work and helping me to learn.''

The American people have said over and over how important class size reduction is to them. When students start school in the fall, parents usually ask two questions: ''Who is my child's teacher?'' and ''How many students will be in my child's class?'' This is because, next to parents and family, the teacher is one of the most important adults in every child's life. We want that teacher to be the best-trained, most-qualified person available. And, we want the number of students in class to be manageable, so each student has access to the teacher, and the teacher is not reduced to doing ''crowd control.''

Qualified teachers in small classes can provide students with more individualized attention, spend more time on instruction and less on discipline and other tasks, cover more material more effectively, and work more closely with parents. Today Congress has done something significant and important—taken the first step to helping local communities increase the number and quality of the teachers in America's schools.

I want to thank all those who helped this happen, from the President and his staff, to Secretary Riley and those who work so diligently, to Senator DASCHLE and our Democratic Leadership in both the Senate and the House. I want to particularly thank Senator HARKIN, who worked with me on a strategy to turn the early defeat of the Administration's larger class size proposal into a one-year version, funded through an existing program—a clear victory for every student in America. I also want to especially thank Senator TED KENNEDY for his stalwart efforts to negotiate the final elements of this bill in consultation with me. His work is always excellent, here particularly so.

And I'd like to single out the people who joined me as co-sponsors of my bill, the Class Size Reduction and Teacher Quality Improvement Act of 1998: Senators KENNEDY, DODD, DASCHLE, MOSELEY-BRAUN, BOXER, LEVIN, ROBB, LIEBERMAN, REED, LAUTENBERG, LANDRIEU, TORRICELLI, BRYAN, KERRY, AKAKA, GLENN, BINGAMAN, and MIKULSKI. And I would like to thank Senator RUSS FEINGOLD who has given so much time and attention to the issue of class size reduction, and recognizing local efforts.

Finally, I would like to thank a few key staff people who worked on this issue all year: Marsha Simon, Ellen Murray, and Bettilou Taylor from the Appropriations Committee staff and Bev Schroeder with Senator HARKIN, Joan Huffer with Senator DASCHLE, and Danica Petroshius with Senator KENNEDY and Amy Abraham with the Budget Committee. I would also like to thank Greg Williamson, Micki Aronson, April Graff, Kennie Endelman and Minerva Lopez with my staff.

As with all things, the class size legislation would not have passed without the efforts of many, many people all working with determination, willing to make compromises on details and get to the important goals.

On other educational issues, we have also made progress this year. The funding levels for adult and family literacy programs have seen modest improvement—something I've worked hard for, and something that needs more improvement. And children's literacy has seen an important first step, in passage and funding for the Reading Excellence Act. Reading efforts around the country and in my state should look on this national attention to reading as the first step to further support.

On education technology, we have made such important investments. Not only did we fund $75 million for teacher technology training for pre-service teachers, but this year we passed the Higher Education Act, which includes my Teacher Technology Training bill, and we have provided another $75 million to fund the partnerships that will make the new law possible in every local community.

On funding for the Individuals with Disabilities in Education Act, we have included the $500 million I asked for in my budget amendment earlier this year, and we did not have to jeopardize other educational priorities to do it. In addition, by including special education teachers in the class size proposal, we have taken important steps to helping local communities deal with the important educational needs of all students.

There were also mis-steps in this bill—cuts to our schools that did not need to happen, negative language that will stir up unnecessary ill-feelings, or funding shifts, such as the one under the Safe and Drug-Free Schools program, that should have been done in a way more reflective of local expertise. But all in all this is a good bill for education, and puts us on the right path.

The Americans I talk to about education funding usually cannot believe that education is really a priority in Congress. After all, only 1.8 percent of overall education spending goes to education. This is the next great challenge. People want Congress to live up to its responsibilities, to look at its priorities, and to listen to people in communities across this great nation. This year, we made some important investments. Next year, we reauthorize the major K–12 education laws. We must look to all of these processes with respect for local knowledge, with bipartisanship, and with a steadfast determination to making education better for all students.

GULF WAR VETERANS ACT OF 1998

Mr. BYRD. Mr. President, I want to highlight a provision contained within this massive omnibus appropriations bill, H.R. 4328, that addresses a long-standing debt owed by this nation to the veterans of the Persian Gulf War. Title XVI of Division C of this bill contains the Persian Gulf War Veterans Act of 1998. In five short sections, the Persian Gulf War Veterans Act of 1998 lays out a sound, scientific process by which the Secretary of Veterans Affairs may make a determination, based on the recommendations of the National Academy of Sciences or other sound scientific or medical evidence, that diseases suffered by Gulf War veterans are linked to hazardous materials they were exposed to during that conflict. That is, the Secretary now has a credible process to determine what diseases should be considered service-connected for purposes of providing health care and disability compensation to Gulf War veterans.

This is not some give-away program, but a long overdue recognition that Gulf War veterans may be suffering from invisible wartime wounds just as real as any left by bullets—wounds to their immune systems, to their muscles and joints, or to their internal organs, caused by the toxic fog of chemicals, oil well fires, and medications in which they were immersed. This nation has a long history of caring for the men and women who were wounded in her service, and it is a shame that it took over seven years to recognize and honor our commitment to these veterans.

I have seen some news reports that this provision will cost between $1 and $6 billion over ten years. I do not know what these estimates are based on. The Congressional Budget Office determined that this program would cost $40 million over the first five years, and a total of $490 million over ten years. That is not an extravagant bill to pay for a war that cost the United States over $60 billion for less than two months of actual fighting—for a mere 100 hours of actual on-the-ground combat. Almost 700,000 service personnel were in the Southwest Asia theater during the initial phase of the conflict, and over one million service personnel have pulled tours of duty in Saudi Arabia and Kuwait since 1991. Over 120,000 of these men and women are now on Department of Defense or Department of Veterans Affairs Gulf War registries, many suffering from multiple debilitating symptoms since their service in the Gulf.

The provisions in this omnibus bill were extracted from S. 2358, a bill I introduced with Senator ROCKEFELLER and Senator SPECTER, the Ranking Member and Chairman, respectively, of the Senate Veterans' Affairs Committee, on July 27. I am proud of this collaboration, which I believe produced a sound as well as needed piece of legislation. Although S. 2358 was adopted by the Senate in the closing days of this Congress, and after the process of putting together the omnibus appropriations bill had begun, no action was taken on it by the House of Representatives. Some elements of S. 2358 were included in two House-passed bills, H.R. 3980 and H.R. 4110, that were sent to the Senate, again, after the process of putting together the omnibus appropriations bill had begun. In my opinion, these bills fell far short of delivering on our commitment to Gulf War veterans.

In both H.R. 3980 and H.R. 4110, the National Academy of Sciences was directed to conduct a study and to make recommendations to the Secretary of Veterans Affairs regarding illnesses that might be linked to service in the Gulf. But, the Secretary was directed only to make recommendations to Congress. The veterans would not receive any immediate assistance. It would be up to Congress to make the determination of service connection, find the funds to pay for it, and convince both Houses of Congress and the President to agree that action should be taken. Mr. President, I do not believe that adding this kind of delay to the process aids our veterans. We can do better, and we did better in S. 2358. Let the Secretary do his job, and if we do not like the way he carries out his job, then we can take corrective action.

Mr. President, I have already noted that these compromise bills arrived in the Senate late in this session, after work on the omnibus appropriations bill had begun. As the Ranking Member on the Senate Appropriations Committee, I had already added S. 2358 to the

list of legislation to be considered for inclusion in the omnibus package. I did this not because I approve of this way of passing legislation on an appropriations bill and especially not on a monstrosity like this omnibus bill, but because I saw an opportunity to do something useful and needed for these veterans. They do not deserve any additional delay. And when I saw that the compromise language contained only a study, and the possibility of further delay for these veterans, I became determined to include the key elements of S. 2358 in the omnibus appropriations bill.

Now, I have been noted for my stubbornness—my friends call it tenacity or perseverance, but my opponents call it stubbornness. On this matter, I was determined, tenacious, persistent, and, yes, even stubborn. As a conferee on the omnibus appropriations bill, I was able to defend my position. This section of the omnibus bill was among the last issues decided. I sincerely thank my colleagues, Senator STEVENS, Chairman of the Senate Appropriations Committee, and Representatives LIVINGSTON and OBEY, the Chairman and Ranking Member, respectively, of the House Appropriations Committee, who supported my efforts to include this provision in the final bill. They did this over the objections of the Administration. For their leadership and courage in defending the interests of Gulf War veterans they merit great praise.

The veterans of the Gulf War have struggled for seven years to have their wartime sacrifices recognized for what they are—the scars of battle. I hope that Title XVI of Division C of H.R. 4328 will set this process on a track that is both credible and fair, and that will follow through on our nation's commitment, in the words of Abraham Lincoln, ''To take care of him who has borne the battle. . . .''

Mrs. FEINSTEIN. Mr. President, today, I voted for H.R. 4328, the omnibus appropriations bill. I believe that on balance, this legislation will benefit California.

This bill is 4,000 pages, 38 pounds, and stands a foot tall. It appropriates $500 billion, funds a third of the federal government for fiscal year 1999, and includes many pieces of authorizing legislation. My staff reviewed the entire bill yesterday. It includes properly written legislative bill language as well as many hand written changes and amendments. Congressional negotiators, the administration, and many staff members have worked for weeks to finalize this legislation today, but that work was often done behind closed doors without the full review of the Senate.

I do not believe that this is the way the Congress should do its work. Our choice today was to shut down the government or pass this bill.

I want, however, to note that the omnibus bill provides many benefits for Californians.

EDUCATION

This bill funds several education initiatives. It includes $1.2 billion to hire teachers and reduce elementary class sizes, an effort already underway in California. This will mean 3,500 new teachers in California. This bill also includes increased funding for Head Start, for Education Reform, for bilingual education, for charter schools, for educational technology and for student financial assistance.

California school enrollment is growing at 3 times the national rate. We need to build 7 new classrooms a day at 25 students per class just to keep up with the growth in student population. We have students in closets, in cafeterias, in portables. We have some of the largest class sizes in the nation. We have 22,000 teachers on emergency credentials. California ranks last in the nation in the percentage of young adults with a high school diploma. Our students rank 37th in the country in SAT scores.

The California public school system has gone from one of the best, to one of the worse. Mr. President, quite simply, we welcome this assistance for the California education system.

I am disappointed that the bill includes a ''hold harmless'' provision for ESEA Title I.

Title I is the largest federal elementary and secondary education program, providing funds to virtually every school district in the country to educate disadvantaged children. Title I has often been called the ''anchor'' of all elementary and secondary education programs since its enactment in 1965. The bill includes $7.8 billion for Title I grants to school districts. California received $830 million last year.

Unfortunately, the bill includes a 100 percent ''hold harmless'' provision under which no school district would receive an allocation that is less than its allocation of the previous year. But the effect of the hold harmless provision for California, that has had an increase in the number of poor children, is not to receive all of the increase in funding to which we are entitled, entitled by law. Thankfully, the bill does include an ''extra'' $301 million that would provide some funds for high-growth states like mine. California could receive as much as $60 million out of the $301 million. I believe the dollars should go equally to all children in the country based on need.

I call on my colleagues to join me in working to join in an effort to make sure the dollars follow the children.

This Senator pledges to devote every ounce of energy I can muster to help our schools deliver on the promise of opportunity and achievement that America's public schools have always represented and I call on my colleagues to join me today in this campaign.

CALIFORNIA ENVIRONMENT

I am pleased that the Omnibus Appropriations bill includes funding for a number of important land acquisition projects in California, including $2 million for the Santa Monica Mountains National Recreation Area, $1 million for the Santa Rosa Mountains, and $1.5 million for the continued acquisition of Bair Island for the Don Edwards San Francisco Bay National Wildlife Refuge. While I am pleased that the bill includes $1 million for land acquisition in the Lake Tahoe Basin, I would have preferred to see the $3 million provided by the Senate Appropriations Committee. Lake Tahoe is an important national resource, and we need to make it a higher priority if we are to stem the environmental decline that is already affecting the area. I intend to work with my colleagues to further address the problems of Lake Tahoe in the 106th Congress.

The Salton Sea bill as approved calls for completion of a plan to save the Salton Sea by January 1, 2000. It provides a total of $5 million in additional funds for biological studies and to conduct demonstration projects to clean up the New and Alamo Rivers. These funds, along with an additional appropriation for the Bureau of Reclamation in a separate section of the bill, provide all the money that will be required to prepare a plan and conduct all environmental documentation. As a result, Congress and the President will be able early in the year 2000 to authorize and appropriate funding for a project to save this incredibly valuable resource.

TRANSPORTATION INFRASTRUCTURE

One of the most important sections of the omnibus appropriations bill provides funding for our nation's roads, airports, and transit systems. This bill will ensure that California's transit systems are more efficient and our roads and airports are safer. The bill will improve the quality of life of California residents by increasing mobility, reducing congestion, and improving the environment.

The bill provides a total of $73 million for the Los Angeles County Metropolitan Transit Authority (MTA). This includes $62 million for the North Hollywood Red Line extension, $8 million for the Regional Transit Alternative Analysis study for the Mid city and Eastside, and $3 million for the purchase of new clean fuel buses. This funding level will allow the MTA to proceed with its restructuring plan as well as improve bus service and move towards the competition of two important rail links.

The bill also provides $27 million for the Tasman West Rail Extension project. The Tasman West Extension will link the heavily congested residential areas of Santa Clara, Sunnyvale, and Mountain View with the Silicon Valley. The funding in this bill will allow the project to continue without interruption and hopefully will permit it to be completed ahead of schedule and under budget as is now projected.

Other important California rail projects funded in this bill are: $23.48 million for the Sacramento south corridor extension, $3.5 million for the San

Diego Mission Valley and midcoast corridor, $3 million for the Oceanside-Escondido light rail project, $1 million for the San Bernardino Metrolink project, and $500,000 to upgrade the rail line connecting the cities of Riverside and Perris.

The bill also provides almost $420 million in formula grants to California. These grants will fund capital projects and finance improvements in equipment and facilities associated with mass transportation. This is an increase of more than $40 million from Fiscal Year 1998. Included in the formula grants are $171 million for Los Angeles, $98.8 million for San Francisco and Oakland, $35 million for San Diego, and $26 million for San Jose. The bill also provides $6.2 million in grants for the special needs of elderly and disabled people in California and $8.2 million for non-urbanized areas of the state.

Another major component of the transportation appropriations bill is funding for buses and bus facilities. Again, this is very important for California where bus systems play a vital role in the transportation infrastructure of our cities. This bill provides more than $30 million to 30 cities and transportation authorities throughout the state. While I would have preferred to see a higher level of funding for many of these projects, the appropriations in this bill will allow local communities to begin purchasing badly needed fuel efficient buses and improving deteriorating bus facilities.

I am disappointed that the conference committee reduced funding for the Bay Area Rapid Transit extension to the San Francisco Airport to $40 million. This is a dramatic cut from the $100.6 requested by the Administration and will seriously impair BART's ability to complete the project on schedule.

Project construction for the BART/SFO extension is already underway. Contracts for over 90 percent of the construction activity have been awarded totaling $607 million. The State of California has recently agreed to provide an additional $57 million for the project. It is unfortunate that the federal government has failed to demonstrate the same level of commitment to this project that has been shown at the state and local level.

I believe that bringing rapid rail transit to the San Francisco Airport is of critical importance to continued economic viability of the region. I am hopeful that this setback in federal funding will not endanger the project and I will work in the 106th Congress to insure that additional funds are made available.

SECURING THE BORDER

The bill provides $97 million next year for 1,000 additional border patrol agents and 140 support personnel at the border, increasing our ability to interdict illegal aliens at the heaviest alien traffic areas such as the Southwest border. It also provides $21.8 million for interior enforcement, providing the badly needed resources for INS to work with state and local law enforcement against illegal immigration.

I am very pleased by the inclusion in the omnibus package of a number of measures that will have a direct impact on our efforts to prevent illegal narcotics from being transported across the Southwest border. These provisions are good news for California.

I want to thank Senator DEWINE and Senator BOB GRAHAM for their many months of leadership in this effort, and for their willingness to work with me to include provisions that will mean fewer drugs on the streets of California.

The supplemental appropriation portion of this bill will increase spending on drug interdiction by a total of $690 million for the current fiscal year. Of that total, $90 million is designated specifically for enhancements at the Southwest border, which is still, without question, ground zero for U.S. drug interdiction efforts. This amount includes $80 million for the U.S. Customs Service to purchase and deploy non-intrusive inspection technology, such as truck X-rays and gamma-imaging for drug interdiction at high-threat seaports and land border ports of entry; and $10 million for INS to purchase and deploy border barrier and surveillance technology, such as effective fences and night-vision scopes.

These funds will make a real difference on the ground. DEA Administrator Tom Constantine recently told me that he estimates that one ton of cocaine is smuggled across the Southwest border each and every day. The smugglers are growing more sophisticated every year, and our agents badly need state-of-the-art technology to counter them, which this bill provides.

In addition, the omnibus package includes the Western Hemisphere Drug Elimination Act, of which I was an original cosponsor. This act, which authorizes $2.6 billion over the next three years for enhanced drug interdiction programs, and requires annual regular reports by ONDCP and other drug-fighting agencies on their progress, contains two key provisions which will directly impact Southwest border, and which were included at my request: authorization of funding for the U.S. Customs Service to purchase truck X-rays as part of its 5-year technology plan; and authorization of $50 million for developing and purchasing computer software and hardware to facilitate direct communication between all the agencies that work on drug interdiction at the border.

Technology offers an important way to fight drug smuggling. Improved communication and coordination among our various border enforcement and drug interdiction agencies is another. Without effective interagency communications systems between Customs, INS, the FBI, DEA, and the Border Patrol, our ability to detect drug smugglers and interdict drugs at the border is seriously jeopardized. The funds authorized by this bill will enhance the effectiveness of all these agencies' interdiction efforts. That translates into fewer drugs on our streets.

NATURALIZING CITIZENS

The Omnibus Appropriation provides $171 million for additional naturalization services of which $11.6 million will be provided specifically for reducing the naturalization backlogs for those localities with backlogs of 15 months or longer. For California, San Diego, Los Angeles and San Francisco along with other counties who currently have a backlog of 2 years may receive the funds to help expedite naturalization applications.

METHAMPHETAMINE

I am very pleased that the Methamphetamine Trafficking Penalty Enhancement Act of 1998 was included in this bill. This provision increases penalties for methamphetamine trafficking, making them roughly equivalent to those for trafficking in crack cocaine. Specifically, it lowers the quantity of meth which qualifies for the highest level of federal drug penalties from 100 grams to 50 grams, the same as for crack. Dealers at this level get a 10 year mandatory minimum sentence for a first offense, a 20 year mandatory minimum for a second offense, and life for a third offense.

Similarly, it also lowers the quantity of meth which qualifies the next-most serious level of federal drug penalties from 10 grams to 5 grams. Again, this is the same quantity as is provided for crack. Dealers of this amount receive a 5 year mandatory minimum for a first offense, and a 10 year mandatory minimum for subsequent offenses.

This provision originally was part of the Comprehensive Methamphetamine Control Act of 1996, which I wrote with Senators HATCH and BIDEN. We were forced to drop this provision to pass the bill by unanimous consent that year, and this year it was re-introduced by Senator ASHCROFT. I am proud to be the first co-sponsor of Sen. ASHCROFT's bill.

Two aspects of methamphetamine make the rapid growth in California especially troubling.

First, meth leads to paranoid, violent, and even bizarre behavior by hardcore users. I will never forget the report of a New Mexico man, high on meth and alcohol, who beheaded his 14-year-old son and threw the head out of the window of his van, on a crowded highway.

Second, meth is cooked in this country in dangerous, clandestine labs, which use highly flammable chemicals, blow up in explosions, and leave toxic, hazardous waste sites, which require environmental cleanup.

This is not a silver bullet which will solve the problem, but it is one more useful step which we can take in this fight.

I am also pleased that this bill contains several appropriations which I

worked for to combat the spread of methamphetamine: $18.2 million for the California Bureau of Narcotics Enforcement's anti-methamphetamine strategy; $24.5 million to hire 100 new DEA agents to target meth trafficking organizations; and $5 million for hazardous waste cleanup of lab sites.

I am disappointed, however, that the conferees did not support the Senate's appropriation of $15 million for transfer to the Drug Diversion Control Fee Account. The clandestine meth labs operate primarily by converting legitimate pharmaceutical products, such as pseudoephedrine and ephedrine, into meth. The Drug Diversion Control Fee Account supports the DEA's efforts to control the diversion of such legitimate pharmaceuticals to illicit use, and we should provide it with greater support.

JUSTICE APPROPRIATIONS

I am pleased that several programs for which I have worked are fully funded in this bill:

COPS funding 88,000 police officers throughout the country now has $1.4 billion provided in this bill to fund another 17,000, reaching the President's goal of hiring 100,000 police—and exceeding it by 5 percent.

Local Law Enforcement Block Grant continued funding of $523 million for this program, which is important to California's cities and counties who utilize this funding to supplement COPS funding for non-personnel law enforcement expenditures.

$283 million is provided for the Violence Against Women Act, increasing support for these programs. I have heard from women's organizations in support of funding for battered woman's shelters and other support services. California sorely needs these resources.

The President's budget request of $95 million for at-risk children's prevention programs is fully funded, as I requested. With a growing adolescent population, California needs continued funding of anti-truancy, mentoring, and curfew initiatives.

A total of $40 million is provided in various ways for the successful Weed and Seed program. Criminal gang activity is a severe problem in many California cities and localities, and many of these California gangs spread their criminal activity to other states. I am committed to curbing the growth of gangs, and Weed and Seed prevention funds are essential to that effort. I have heard from a number of California mayors, including Mayor Omar Bradley from Compton, who support the program and expanded funding.

Another $12 million is provided for prevention efforts to combat youth gangs, under the Juvenile Justice and Delinquency Prevention Act.

TERRORISM AND TECHNOLOGY PROGRAMS

This bill also provides for several programs which were of particular interest to me as ranking member of the Subcommittee on Technology, Terrorism and Government Information of the Judiciary Committee;

Extensive funding is provided for a variety of programs to combat terrorism and to be prepared to meet the threat which this form of evil poses, including: $145 million for the counterterrorism fund, $135 million for state and local preparedness for the threat of chemical and biological weapons, including: personnel protective gear, communications equipment, decontamination equipment, training, needs assessment, technology development; and bomb technician equipment. It also includes: $10 million for the National Critical Infrastructure Protection Center, $282 million to the FBI for counter-terrorism and foreign counter-intelligence investigations.

$23.4 million is authorized from Justice's asset forfeiture fund to support more efficient use of the communications spectrum by law enforcement. The need to have adequate spectrum available for law enforcement is a particular concern of local law enforcement leaders from California. Enabling more efficient use of the available spectrum will help to address this concern.

CRIME PREVENTION

This bill also provides for several California programs to reduce crime which I have supported, including:

State Criminal Alien Assistance Program: I am particularly pleased that continued funding of $585 million to reimburse states and localities for the cost of incarcerating criminal aliens is provided, restoring the $50 million which had been cut by the Senate. This is particularly important to California, which bears the lion's share of the burden of incarcerating criminal aliens. This, however, is still not sufficient to meet the costs borne by the states and localities, and I will continue to work in the future for this program.

Delancy Street Foundation/Criminal Justice Council Juvenile Justice initiative received $750,000 earmarked for this public-private comprehensive effort designed to interrupt the cycle of chronic crime and transform a young person's negative cycle to a positive one by providing major life-altering interventions at continuous points. This program can serve as a model for the rest of the nation in simultaneously decreasing juvenile crime and providing new and real opportunities for youths.

Compton's crime problems merit special consideration and treatment. According to Mayor Omar Bradley, there are 9,000 suspected gang members in Compton, amounting to ten percent of the City's population. Compton's homicide rate is nearly 10 times that of similar sized cities in the Southeast L.A. area, with more homicides in January alone (14) than 23 of the other 27 cities had in all of 1996. Seventy-six percent of suspected homicide offenders were under the age of 27. The report directs the Justice Department to consider grants to help fight this uniquely severe crime problem by upgrading Compton's woefully outdated police computer system and by establishing a Compton Youth Intervention Center for afterschool programs to serve as a safe haven for 1,000 youth.

My colleagues from California, Senator BOXER, and I jointly requested this $2 million earmark to support this proven, successful initiative that has already helped over 12,000 California police officers better understand how they can promote tolerance and reduce prejudice in their workplaces and communities. With this additional funding, the Center can implement its plan to conduct four-day workshops to train tolerance instructors from police Departments from around the country on how to control prejudice and hate crimes. These officers will then be able to go back to their communities and teach other officers how to combat prejudice and bias.

The overwhelmed 911 emergency response system has prompted cities around the nation to experiment with a 311 non-emergency number to relieve the burden and improve access to emergency assistance. The 311 telephone system would allow police departments such as Los Angeles' to free officers from the burden of responding to non-emergency 911 calls and gives the community an easy-to-remember link to the police, thus strengthening community policing. The conference report supports the use of funds for non-emergency numbers such as 311.

CANCER RESEARCH

The bill also includes $2.9 billion for the National Cancer Institute, a 15 percent increase. Cancer afflicts 1.2 million Americans each year. Cancer will kill 1,500 people a day this year. But we currently invest less than 2 percent of cancer's health care costs in research to find a cure and treatments. NCI can currently only fund 28 percent of grants, less than one-third approved for funding.

In the September 25 hearing of the Senate Cancer Coalition, Dr. Allen Lichter, President of the American Society for Clinical Oncology said, ''It often takes several years to get a clinical cancer trial activated from the idea stage to the point of involving patients because of insufficient funds. For every clinical trial that gets activated, there are many worthwhile trials sitting undone.''

I submit that this is not a vigorous war on cancer, when we are funding less than one-third of grants proposed.

BREAST RECONSTRUCTION

I am also pleased that the bill includes language requiring insurance plans that cover mastectomies to also cover breast reconstruction and prostheses. The language in this bill is taken from S. 249, a bill that I introduced with Senator D'AMATO on January 30, 1997. One study found that 84 percent of patients were denied insurance coverage for reconstruction of the removed breast, calling it ''cosmetic.'' Plans have arbitrarily denied this very necessary surgery, to make a woman whole. Twelve states require coverage

of breast reconstruction, including my own, but we need a national standard. This provision can bring hope and help restore self-esteem to thousands of women who lose their breast to breast cancer every year.

PROTECTING CHILDREN'S ONLINE PRIVACY

The Omnibus Appropriations bill requires the Federal Trade Commission (FTC) to take steps to protect children's privacy on the Internet, similar to provisions authored by Senator FEINSTEIN in S. 504, the Children's Privacy Protection and Parental Empowerment bill. Specifically, the Omnibus bill directs the FTC to require commercial website operators to follow fair information practices in collecting and using personal information from children age 12 and under. Commercial websites must obtain verifiable parental consent for the collection, use, or disclosure of personal information from children. States are authorized to enforce the regulations. The bill further directs the FTC to provide incentives for self-regulation by operators to protect such information. The FTC is required to report to Congress on the implementation of the regulations.

EMPOWERMENT ZONES

I am also pleased that the bill includes $60 million in social services grant funding for a second round of 20 urban and rural empowerment zones. The empowerment zone concept has shown great promise in promoting economic development in some of our nation's income communities. I know of a number of California communities who are applying for empowerment zone designation in this latest round, and if selected, this funding will enable them to attract business to their area and prepare residents for jobs.

NEW COURTHOUSES

The bill includes funding to acquire sites for two new Federal courthouses, in San Jose and San Diego. These courthouses are badly needed to relieve the pressure of rising criminal, civil, and bankruptcy case filings. The bill includes $15.4 million to purchase land for the new courthouse in San Diego, and $10.8 million to purchase land for the new courthouse in San Jose.

The Omnibus Appropriations include $36 million for the State of California, pursuant to the agreement worked out between the state and the federal government to settle California's claim to lands that were located in the Elk Hills Naval Petroleum Reserve. This funding has been a bipartisan priority for California's entire delegation, and I am pleased to see that it was included in the final bill.

INTERNATIONAL AFFAIRS

The international affairs provisions of this omnibus package contain a number of important steps forward in stabilizing the global economy and combating the scourge of international drug trafficking.

I am pleased that our colleagues in the House finally saw the wisdom of providing the $17.9 billion to the International Monetary Fund that the President requested. These funds are among the best investments we can ever make. In 1998, we have seen economies across Asia and Latin America and in Russia go into virtual free fall. And if there is one principle of the global economy today, it is that economic turmoil abroad is sure to affect us here at home.

When the currencies of our trading partners fall through the floor, as we have seen repeatedly this year, they are unable to purchase U.S. exports. That translates into lost American jobs, as our producers discover that there is no one overseas to buy their products. The funds we are providing the IMF in this bill, and the additional funds they will leverage from other donors, will help to stabilize the economies of our trading partners, protecting our export markets from further collapse, and saving U.S. jobs. In a state with an export-driven economy like California, this is good news. The IMF reforms called for in this bill that will ensure greater transparency and more market-based lending practices are helpful, but the most important news is that the IMF's coffers will be replenished, allowing it to provide further assistance to vulnerable economies around the world.

The Foreign Operations Appropriations section of this bill also includes an important earmark, which I want to highlight: $75 million in economic assistance to Indonesia. I do not think that most Americans appreciate the strategic and economic significance of Indonesia, the fourth most populous nation in the world. Indonesia's status as the political and economic anchor of Southeast Asia make the economic and political crisis there that much more serious. The assistance that will be provided by this act—as directed by policy language in the bill which I authored—will help alleviate the most severe suffering and food shortages in Indonesia, while helping to ease the transition to a more democratic form of government and the reform of the Indonesian economy.

An important component of restoring social and economic stability to Indonesia is ensuring that all Indonesians, including minority ethnic groups, are protected and able to participate fully in the society. For that reason, I am pleased that the bill includes a provision I offered directing the President to assist the Indonesian government and appropriate non-governmental organizations in their investigation of the brutal violence and rapes against Indonesian Chinese in May of this year. In six months we will receive a report from the Administration on the findings of these investigations, and the steps taken by the Indonesian government to punish the perpetrators of the violence and protect Indonesian Chinese from its repetition.

STATE DEPARTMENT AUTHORIZATION

Let me say a word about the State Department Authorization portion of this bill, which contains some important progress, but also one major disappointment. I am pleased that after nearly four years of back-and-forth haggling, the State Department reorganization plan—now agreed to by the Administration and the Congress—can proceed. It should help to streamline our foreign affairs agencies and reduce unnecessary duplication of effort. In addition, I am pleased that the bill includes a provision I authored which will allow us to increase pressure on alien parents who abduct American citizen children from an American parent with legal custody by allowing us to deny visas to those who support the abducting parent.

But something very important is missing from this section of the bill: authorization to pay off our arrears to the United Nations. Unbelievably, the Republican leadership has acceded to the wishes of a tiny minority of their caucus, which has insisted on perpetuating an artificial link between paying U.N. arrears and international family planning assistance. Despite broad agreement on a three year plan to pay off our U.N. arrears while the U.N. conducted significant reforms a group of hardline House members have chosen to hold these arrears hostage to their agenda on a wholly unrelated, essentially domestic issue: abortion.

Under the false impression that by weakening our international family planning programs with Mexico City restrictions, they could prevent abortions—in fact, they would do the opposite, depriving many women of contraceptives and thereby leading to more abortions—these Members have insisted on weakening the United States' international reputation and the United Nations, causing great harm to our foreign policy interests.

This tactic is utterly irresponsible, and yet, the Republican leadership has gone along with it. They will send this bill without U.N. arrears, and the President will sign it. Then they will send the free standing bill which contains U.N. arrears, but also contains Mexico City restrictions, and, as we all know, the President will veto it. And although the United States will, by the skin of our teeth, avoid losing our vote in the U.N. General Assembly for nonpayment of arrears—postponing the crisis for one year—we will have to begin this effort all over again next year. Our foreign policy interests will be placed at further risk, all for the sake of a political point about abortion. And though I will vote for this bill, I am deeply distressed by the failure to include authorization to pay our U.N. arrears. It is a mistake that I believe we will regret.

Mr. KERREY. Mr. President, I voted no on this Omnibus spending bill. I did so reluctantly, because most of what I know about it—which is contained in the pages about agriculture, education and other areas—I like. It is because of the several hundred pages that are a complete mystery to me that I vote no.

Mr. President, democracy should not work this way. The people send us here to deliberate serious matters of public policy and to represent their interests and the nation's in the debate. In this case there was no debate, and it was not possible to represent anyone's interests because it is impossible to know how, if at all, those interests comport with a bill whose 3,800 pages were not even published until the dark of last night.

Lest the American people be confused about why it has come to this, there is a simple answer. The majority party did not schedule Congress' time to do the work the people pay us to do. One of the Congress' most basic duties is to decide how the people's money is to be spent. That process involves the passage of 13 appropriations bills, of which we managed to pass a whopping total of five in several months. The majority party found ample time to debate matters of such crashing importance as the scourge of human cloning and the name of the airport from which most of us are going to flee this scene later today. Let there be no mistake about it: The necessity of a $500 billion omnibus bill did not arise from grand ideological disputes. It came from a failure, plain, simple and unadulterated, to do our jobs because the majority party chose to use the Congress' time to do other things.

As a result, the American people suspect that what has happened over the last few days was a back-room deal involving hundreds of billions of dollars of their money being spent with no opportunity for their input, debate or, for that matter, even for their elected representatives to see the final product. Why is that? I submit the reason might be that this bill was a back-room deal involving hundreds of billions of dollars of their money being spent with no opportunity for their input, debate or, for that matter, even for their elected representatives to see the final product.

Later today I intend to participate in a panel discussion featuring the senior Senator from New York, who will discuss his new book on secrecy and national security. His thesis is that excessive secrecy produces suspicion, mistakes and unnecessary costs. I completely agree with him. This budget process—which the Senator from New York has aptly noted moves us toward something akin to a parliamentary system in which decisions are made behind closed doors by a select few—proves that the Senator's thesis on secrecy in national security applies equally to secrecy in domestic policy. It breeds suspicion, and it breeds mistakes. There are few things I can say with certainty about this budget, since very few of its several thousand pages were available before yesterday, but I can predict one thing with total confidence: When the smoke clears and the budget is actually read, there are going to be things in it that would never have survived a public debate.

The majority will protest that this last-minute flurry was caused by threats of vetoes from the President. I am not overly sympathetic on that point, Mr. President. The current occupant of that office has held it for six years. His views on appropriations bills are not a mystery sprung on the majority party at the last moment. He submitted a budget at the beginning of this year outlining what he wanted. He does not schedule the Senate's time for debate.

We cannot go on like this year after year, Mr. President, taking money from the pockets of taxpayers and then huddling behind a closed door to negotiate among a select few—many of them unelected—how to spend it. This is not government of, by and for the people. It is only half in jest that I say, sadly, that it is more like government by four people.

As I said, Mr. President, I cast my nay vote reluctantly because I am pleased with much of what I know about this bill. I am glad we succeeded in convincing the majority of the need to extend a helping hand to America's first industry—agriculture—at a time of grave crisis. I believe children in school are going to learn more and better because we are putting teachers in the classroom. I'm delighted the tax portion of this bill includes a provision much like a bill which I have introduced which would prevent working families from paying higher taxes by allowing them to deduct their child care, child and education credits under the Alternative Minimum Tax. This bill also provides a much-needed extension of the R&D tax credit and will help the self-employed, particularly farmers, by accelerating the deductible amount of their health insurance costs.

At the same time, I am very disappointed the livestock price reporting provision, which I authored in the Senate, was dropped from this package. I do not believe the home health care problems we face will be ''solved'' by this bill and we should not be led to believe that the agriculture crisis in this country will come to an end as a result of this bill. In addition, I firmly believe that the thousands of people in this country waiting for organ transplants, will be hurt, not helped by further delay in issuing regulations governing organ transplant allocations.

But what I object to the most is not what we know about this bill, but what we do not, and can not. You can stir up a lot of mischief in a bill that runs over 3,800 pages that no one has read.

Maybe we can take some comfort in the hope that the 106th Congress will do better. We won't be perfect. But perhaps we can get a jump on our pursuit of perfection by acting like a democracy, then by doing the work we are paid to do.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I would like to speak a few minutes about the bill we just passed. I would like to register my personal views about both the substance of the bill and the process by which it was passed.

I have very mixed emotions. First, I am very disappointed in a process that led to this midnight power play. This bill, as has been pointed out by others speaking before me, is almost 4,000 pages long. It weighs 40 pounds. It contains about $500 billion in Federal spending. I might tell you, Mr. President, that $500 billion is enough to pay for the State budget of Montana for 200 years. It was also produced within 24 hours' notice of this vote. As a practical matter, most offices had no more than a few hours to look at this bill. They had no copies of it. They had to go to a central location and wade through it with other staff members. There is nobody in this entire Congress who knows all of the provisions in this bill; it is that massive, and it was written behind closed doors.

Mr. President, I will admit that it is a with many worthwhile projects and programs. For example, it provides assistance for farmers, so important to the State of Montana and other farming states. It has provisions that help increase our investment in education, again not only for the Nation but for my State of Montana. It provides important new tools on the war against drugs. And it provides important new funding for health care programs. The bill also provides money for the International Monetary Fund to help fulfill our obligations as a leader in the global community. By doing so, we are strengthening the economies on which our export markets depend. Montana has seen wheat exports decline by 50 percent, almost entirely because of lack of demand in Asia. In addition, one company, U.S. Semitool in Kalispell, MT, has had to lay off over 200, again because of a reduction in demand.

By funding the IMF we also fulfilled our role as leader of the world community. Like it or not, the United States is the sole remaining superpower, and our leadership is essential in resolving international crises. By appropriating $18 billion for an IMF credit line, Congress is letting the world know that the United States is interested in living up to its unique role. Incidentally, it should be noted that the United States has never lost one thin dime in the last 50 years that we supported funding for the IMF. It is not the big drain that some people, unfortunately, believe it is.

Mr. President, I obviously have serious reservations about the process with which this bill reached the Senate floor. That said, I do want to commend the efforts of those who made a flawed process better. The President's Chief of Staff Erskine Bowles, who is departing, was outstanding. He will be sorely missed by anyone, who has worked with him. I know of no finer public servant than Mr. Bowles.

The President's Director of the Office of Management and Budget, Jack Lew, has likewise been a pleasure to work with, as has Larry Stein, the President's congressional liaison. There are many others I could name in the executive branch with whom I worked—devoted servants tenacious in their support for good programs for our country.

The same applies to the chairman of the Appropriations Committee, Senator STEVENS, and Senator BYRD. Both are tremendous leaders and both are tremendous men. The House leadership was also very helpful at times, as were the chief persons in the House Appropriations Committee. I very much appreciate their efforts, without which we would have faced an even more objectionable means of legislating today.

Mr. President, I am convinced that Americans are less concerned about the process we have used to pass this bill than what is actually in it. Whether it is highway funding an airport project, I think process is less important than outcome, as long as results are delivered. I think Tip O'Neill, the former Speaker of the House, said it best: ''all politics is local.''

So, why am I so concerned about the process? Let me explain. Ordinarily, bills that go through the Congress arrive through committees. They are debated there and, if passed, sent to the floor. After being placed on the calendar, the majority leader—some years it is a Republican leader, other years it is a Democratic leader—sets the agenda and decides which bills to bring up to be debated before the Senate. It is generally a collegial agreement between the majority leader and the minority leader as to which bills are brought up and debated.

Following debate and passage on the floor, bills go to a conference, because the House has gone through a similar procedure. Many of the bills that are brought up on the floor under the Senate rules have added onto them various amendments. Some amendments are relevant and germane to the bill before the Congress but often, under the Senate rules, many are not. Regardless, all of those provisions are debated, in full view of the public and press. Senators cast their votes yes or no—sometimes with recorded votes, sometimes with voice votes—but then they go to conference.

What happens in conference? Generally, the principal members of the committee of jurisdiction meet with the principal members of the committee of jurisdiction of the House of the bill that passed, because they are similar but there are different provisions. There are some adjustments the conferees have to make, so they recommend the same bill with the same provisions back to both bodies. Both bodies then vote yes or no, and, if passed, the President gets one bill. The President can sign it, veto it, or pocket veto the bill.

That is the procedure, and it is basically the procedure our Founding Fathers had in mind when they wrote the Constitution. They didn't write all the rules for the House and the Senate, but they decided there should be a House and Senate and the bodies should make their own rules. They intended that Congress should operate in the context of openness in government and representative democracy in government. That was the whole purpose of our Founding Fathers writing the Constitution, escaping tyranny from Europe: representative democracy, where the people are in charge.

Mr. President, I am not going to stand up here as a purist and say we should follow that lock, stock and barrel. We have to be practical and do what works, but we must do so with full respect for the people who elected us, the people we have the privilege of serving.

Unfortunately, something very different than the process I just described was used to pass this omnibus appropriations bill. What happened, essentially, is that 3,800 pages of legislation—which, by and large, contains 8 appropriations bills that did not pass both bodies and go to conference, was put in one conference report. This legislation did not go to the floor of the House or the Senate, where it could be debated and amended. It is legislation, rather, which is in this conference report and sent back to the House and Senate unamendable—unamendable. I might also mention that roughly half this bill is authorizing language that ordinarily goes through the committee process.

So who made the decisions that resulted in this 4,000 page bill? Were they the chief people in the committees of jurisdiction? No. Were they Democrats, Democratic leadership? Not very often. So, who were they? Essentially, the people in the closed room—unavailable to the press, to the public, unavailable to other Senators—were top staff in the administration and the leadership of the House and Senate, usually Republican and to some degree Democratic, which would mean about five or six, maybe eight Members of Congress.

Mr. President, we have 535 Members of Congress, roughly. Eight of whom were in the room with the administration officials, hammering this bill out. There is so much here, even they do not know what is in it. What did the rest of us do? We had little choice but to do the very best for our people at home and get on the phone. We called the select few in that room, trying to make our views heard, trying to make a semblance of a democratic process.

I spent a lot of time talking to the chief administration officials who I know were in the room. To their credit, they listened to me. And to their credit, they agreed with a good number of the views that I was espousing.

I did the best I could, given the circumstances we had, and I am pleased that those people in the room decided to include some Montana provisions, like Canyon Ferry; various land and water conservation funds, like money for the purchase of the Royal Teton Ranch right next to Yellowstone Park; funding to help the massive Gallatin land exchange; the purchase of Lindbergh Lake, for a number of the same reasons. There are a lot of provisions in this bill that directly affect my State, in addition to broad national policies, such as more teachers, more funding for education, and so forth.

But I believe, Mr. President, that there comes a time when the process becomes so corrupted that it undermines and corrupts the legislation that is passed.

Let me give a little personal background here. Several years ago, I was involved in writing Montana's State Constitution. I think we are the last State in the Nation to rewrite a constitution. There is a very important provision in our State's constitution called an open meeting law. In Montana's constitution, all public meetings are open to the press. The Governor of our State knows all the meetings he has in his office will be attended by the press.

Sure, it causes some problems. Some in State government say, ''Oh, my gosh, this is a terrible provision; it cramps our style; it makes it difficult for us to do our work.'' Sure, it makes it sometimes difficult, but we all know deep down it is for the public good and, as with a lot of things that are good, it takes effort, it takes hard work. Most of the good things in life take effort and hard work. This is one of those. We have an open process in Montana, and we have a much higher view in Montana of our public servants. It is very helpful.

I will relate another personal experience which indicates my resolve toward a more open representative process. It occurred a little more than 20 years ago, when I was a freshman Member of the House. I had a free hour with not much to do, and I said, ''Well, I think I will learn something. I will go to a tax conference writing a tax bill,'' by Senate conferees, House conferees, Senate Finance Committee, House Ways and Means Committee, top folks who are in the conference for a large tax bill.

I asked around, ''Where is this meeting, where are they?'' I got the runaround. Nobody could tell me where they really were. I finally went to Mike Mansfield, then majority leader of the Senate. I thought, ''Gee, Senator Mansfield could find out where it is occurring.'' Sure enough, his people told me. I went over there. A policeman was standing right at the doorway. I said I am a Member. I think he thought I was a member of the conference, so he let me in.

I took a seat in a corner so I could watch and learn a little about tax policy and how conferences work. I was there, minding my own business listening to Wilbur Mills, chairman of the Ways and Means Committee, and Russell Long, chairman of the Senate Finance Committee, talking.

They were trying to work out this bill. There were a lot of executive branch people in the room. Treasury Secretary Bill Simon was in the room, along with other executive branch people. I was just sitting there about 5 or 10 minutes, and up walked a senior House Member, Congressman Burke from Massachusetts. He said, ''Sorry, you can't be here.''

I asked, ''Why? Why can't I be here?''

He said, ''Well, it's the rules.''

I said, ''What rule is it?''

He said, ''Well, it's the Senate rule.''

I said, ''What Senate rule is it?''

He said, ''I'm sorry, you just can't be here. Nobody can be here. No other Member of the House and Senate can be here. Not even Congressman Bill Green can be here.''

Bill Green, who was then a Member of the House Ways and Means Committee who successfully authored the provision on the floor of the House to modify the percentage of the oil depletion allowance, even he couldn't be in the room. All the people allowed in the room were the conferees. It was closed doors and that is it.

I said to Congressman Burke at the time, ''Look, I'm not going to cause a fuss here, but this is wrong. It is just not right that this is not open to the public, certainly to Members of the Congress.''

That afternoon, I stood before the House, along with Congressman Ab Mikva, who also did not like that process, and we voiced our disagreement and displeasure. Next year, things opened up because it was the right thing to do.

Perhaps I have too much of a personal investment in this, but I do believe the people are much better served the more the process is open and the more the process is not corrupted as, in my judgment, this process is.

Again, about half of the U.S. Government bills, which did not pass the House or the Senate or go through committees in the full light of day, which did not pass the floor of the House, some of which were not even brought up on the floor of the House or the Senate, were put in this huge bill, then sent back to the Senate and the House unamendable. No amendments are in order, Mr. President, in this process; none.

I suppose there is a reason for that because none of us know what is in the bill. How can we offer an amendment if we don't know what is in the bill? I asked the Parliamentarian not long ago: How much of this is authorization, how much is appropriations? He said, ''Senator, we just don't know; this huge stack here is too big for us to have gone through it by now. We just don't know.''

As I said, Mr. President, I am in an anxious position here because a lot of good is in this bill. But the process, in my view, is wrong. That's why I voted no on the bill.

The provisions that are in this bill I would have worked for in separate bills, in separate agriculture bills or Agriculture appropriations bills or in other authorizing bills that would ordinarily come before the Congress.

Again, I am not going to be a purist about this, I just want to be practical. We have done this 2 years in a row, dumping so much in such a very undemocratic way into a huge bill written behind closed doors, written by only a few Members of the House and Senate and the administration. This process dangerously disenfranchises most Senators, House Members and American voters.

We, as Senators and House Members, don't have an opportunity to go back to our people and say, ''What do you think of this provision?'' They don't have an opportunity to say to us, ''We don't like what is in there, vote this way or that. They are disenfranchised, cut out of the process.

This is not legislation by representative democracy, Mr. President. It is legislation by a very few, by oligarchy.

At a deeper level, what does that do? It further undermines the people's confidence or belief in Government. This process does that. It confirms some of the worst views a lot of Americans have; namely, oh, those guys back there in Washington are just out for themselves; they don't care about us.

Mr. President, we must draw the line. Enough is enough. We all know that the more issues are actually fully debated—and I mean debated—the more the public has a chance then to see what is going on, and they themselves get more involved. To the extent we do that, this country will be stronger. We know that. We also know that the less the people are involved, the less they know what is going on, and the weaker this country is going to be.

Mr. President, we are the world's oldest democracy. We have a form of government where the people elect their representatives to do their nation's business. We are not a kingdom, we are not a monarchy. And we will be the leader in the next century if people are more involved in government. And they will be more involved in government the more we, as representatives, respect them, respect their views, want their views, want them to be able to comment on what we are doing or not doing.

But on the other hand, the more we disrespect people by hiding behind closed doors, in the dark of night, the more we will cause a further deterioration of our government and weaken the United States role as the world leader that we want to be in the next century.

Finally, Mr. President, let me say that this is a sad moment for me. I cast my vote with reservation, fully aware of the good that this bill contains. But vote no I must, simply because I think that to vote yes would be to cast a vote for exclusivity and against the democratic process. I worked very closely with some individuals who made a few of this bill's important provisions reality, and I do not want now to be voting against their reference. They made a good effort and did a very good job, given the situation they were in, given the circumstances they faced. They were helpful to those of us who were working for our States and had nothing else to do—no alternative—but to try to work with this abominable process.

In closing, Mr. President, I want to say that next year it is critically important that we prevent this process from happening again. We have done this two years in a row, and each year more and more and more is getting dumped into this omnibus conference report process. If this trend continues, then within a year or two maybe three-quarters of Government is going to be in there; maybe everything is soon going to be in there, which means I might as well not report for work until the final 3 weeks of the Congress, because that is where it is all done, with those few people behind closed doors.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAREWELL TO RETIRING SENATORS

Mr. LOTT. Mr. President, in this last day of the 105th Congress, I think it is appropriate that we take a little more time to express our appreciation and our admiration for our retiring Senators. I look down the list: Senator BUMPERS of Arkansas; Senator COATS of Indiana; Senator FORD, the Democratic whip, of Kentucky; Senator GLENN, who will soon be taking another historic flight into space; and Senator KEMPTHORNE, who I believe is also going to be taking flight into a new position of leadership and honor. This is a distinguished group of men who have been outstanding Senators, who have left their mark on this institution. I believe you could say in each case they have left the Senate a better place than it was when they came.

Have we had our disagreements along the way? Sure, within parties and across party aisles. I have to take a moment to express my appreciation to each of these Senators. I especially want to thank Senator FORD for his cooperation in his position as whip. We worked together for a year and a half as the whip on our respective side of the aisle and we always had a very good relationship. Of course, I have already expressed my very close relationship for Senator COATS and for Senator KEMPTHORNE.

To all of these Senators, I want to extend my fondest farewell.

As majority leader, I feel a responsibility to speak for all of us in bidding

an official farewell to our five colleagues who are retiring this year.

It was 1974 when DALE BUMPERS left the governorship of Arkansas to take the Senate seat that had long been held by Senator Fulbright. There are several Senators in this Chamber today who, in 1974, were still in high school.

Four terms in the Senate of the United States can be a very long time—but that span of nearly a quarter-century has not in the least diminished Senator BUMPERS' ENTHUSIASM FOR HIS ISSUES AND ENERGY IN ADVANCING THEM.

He has been a formidable debater, fighting for his causes with a tenacity and vigor that deserves the title of Razorback.

It is a memorable experience to be on the receiving end of his opposition—whether the subject was the Space Station or, year after year, mining on public lands.

Arkansas and Mississippi are neighbors, sharing many of the same problems. From personal experience, I know how Senator BUMPERS has been an assiduous and effective advocate for his State and region.

No one expects retirement from the Senate to mean inactivity for Senator BUMPERS, whose convictions run too deep to be set aside with his formal legislative duties.

All of us who know the sacrifices an entire family makes when a spouse or parent is in the Congress can rejoice for him, for Betty, and for their family, in the prospect of more time together in a well earned future.

Senator DAN COATS and I have a bond in common which most Members of the Senate do not share. We both began our careers on Capitol Hill, not as Members, but as staffers.

I worked for the venerable William Colmer of Mississippi, Chairman of the House Rules Committee, who left office in 1972 at the age of 82. Senator COATS worked for Dan Quayle, who came to Congress at the age of 27.

Despite the differences in our situations back then, we both learned the congressional ropes from the bottom up.

Which may be why we both have such respect for the twists and turns of the legislative process, not to mention an attentive ear to the views and concerns of our constituents.

Now and then, a Senator becomes nationally known for his leadership on a major issue. Senator COATS has had several such issues.

One was the constitutional amendment for a balanced budget. Another was New Jersey's garbage, and whether it would be dumped along the banks of the Wabash.

The garbage issue is still unresolved, but on other matters, his success has been the nation's profit.

He has championed the American family, improved Head Start, kept child care free of government control, and helped prevent a federal takeover of health care.

His crusade to give low-income families school choice has made him the most important education reformer since Horace Mann. His passionate defense of children before birth has been, to use an overworked phrase, a profile in courage.

Senator COATS does have a secret vice. He is a baseball addict. On their honeymoon, he took Marcia to a Cubs game. And when he was a Member of the House, he missed the vote on flag-burning to keep a promise to his son to see the Cubs in the playoffs.

To Dan, a commitment is a commitment. That is why he is national president of Big Brothers. And why, a few years ago, he kept a very important audience waiting for his arrival at a meeting here on the Hill.

He had, en route, come across a homeless man, and spent a half-hour urging him to come with him to the Gospel Rescue Mission.

Here in the Congress, we must always be in a hurry. But Senator COATS and his wife, Marcia, have known what is worth waiting for.

They have been a blessing to our Senate family, and they will always remain a part of it.

Senator WENDELL FORD stands twelfth in seniority in the Senate, with the resignation of his predecessor, Senator Marlow Cook, giving him a six-day advantage over his departing colleague, Senator BUMPERS.

He came to Washington with a full decade of hands-on governmental experience in his native Kentucky. He had been a State senator, Lieutenant Governor, and Governor. With that background, he needed little time to make his mark in the Senate.

In that regard, he reminds me of another Kentuckian who make a lasting mark on the Senate.

Last month, I traveled to Ashland, the home of Henry Clay, to receive a medallion named after the man once known as Harry of the West. Senator FORD was a prior recipient of that award, and appropriately so.

Henry Clay was a shrewd legislator, a tough bargainer, who did not suffer fools lightly. That description sounds familiar to anyone who has worked with Senator FORD.

He can be a remarkably effective partisan. I can attest to that. There is a good reason why he has long been his party's second-in-command in the Senate.

At the same time, he has maintained a personal autonomy that is the mark of a true Senator. He has been outspoken about his wish that his party follow the more moderate path to which he has long adhered.

Senator FORD's influence has been enormous in areas like energy policy and commerce. Contemporary politics may be dependent upon quotable sound-bites and telegenic posturing, but he has held to an older and, in my opinion, a higher standard.

One of the least sought-after responsibilities in the Senate is service on the Rules Committee.

It can be a real headache. But it is crucial to the stature of the Senate. We all owe Senator FORD our personal gratitude for his long years of work on that Committee.

His decisions there would not always have been my decisions; that is the nature of our system. But his work there has set a standard for meticulousness and gravity.

All of us who treasure the traditions, the decorum, and the comity of the Senate will miss him.

We wish him and Jean the happiness of finally being able to set their own hours, enjoy their grandchildren, and never again missing dinner at home because of a late-night session on the Senate floor.

There are many ways to depart the Senate. Our colleague from Ohio, Senator JOHN GLENN, will be leaving us in a unique fashion, renewing the mission to space which he helped to begin in 1962.

In the weeks ahead, he will probably be the focus of more publicity, here and around the world, than the entire Senate has been all year long.

It will be well deserved attention, and I know he accepts it, not for himself, but for America's space program.

For decades now, he has been, not only its champion, but in a way, its embodiment.

That is understandable, but to a certain extent, unfair. For his astronaut image tends to overshadow the accomplishments of a long legislative career.

In particular, his work on the Armed Services Committee, the Commerce Committee, and our Special Committee on Aging has been a more far-reaching achievement than orbiting the earth.

With the proper support and training, others might have done that, but Senator GLENN's accomplishments here in the Senate are not so easily replicated.

This year's hit film, ''Saving Private Ryan,'' has had a tremendous impact on young audiences by bringing home to them the sacrifice and the suffering of those who fought America's wars.

I think Senator GLENN has another lesson to teach them. For the man who will soon blast off from Cape Canaveral, as part of America's peaceful conquest of space—is the same Marine who, more than a half century ago, saw combat in World War II, and again in Korea.

His mission may have changed, but courage and idealism endure.

In a few days, along with Annie and the rest of his family, we will be cheering him again, as he again makes us proud of our country, proud of our space program, and proud to call him our friend and colleague.

Senator DIRK KEMPTHORNE came to us from Idaho only six years ago. He now returns amid the nearly universal expectation that he will be his State's next Governor. It will be a wise choice.

None of us are surprised by his enormous popularity back home. We have come to know him, not just as a consummate politician, but as a thoughtful, decent, and caring man.

This is a man who took the time to learn the names of the men and women who work here in the Capitol and in the Senate office buildings.

In fact, his staff allots extra time for him to get to the Senate floor to vote because they know he will stop and talk to people on the way.

During the memorial ceremony in the Capitol Rotunda for our two officers who lost their lives protecting this building, Senator KEMPTHORNE noticed that the son of one of the officers, overwhelmed by emotion, suddenly left the room.

DIRK followed him, and spent a half-hour alone with him, away from the cameras. The public doesn't see those things, but that's the kind of concern we expect from him.

His willingness to share credit gave us our Unfunded Mandates Act and reauthorization of the Safe Drinking Water Law. And his eye for detail and pride in his own home State led to the transformation of that long, sterile corridor between the Capitol and the Dirksen and Hart office buildings.

Now, as tourists ride the space-age mechanized subway, they enjoy the display of State flags and seals that form a patriotic parade. It delights the eye and lifts the spirit.

If you've ever visited Idaho, known its people, and seen its scenic wonders, you don't have to wonder why he's leaving us early.

You wonder, instead, why he ever left.

Years ago, he explained his future this way: That he would know when it was time to leave the Senate when he stopped asking ''why'' and started saying ''because.''

We're going to miss him and Patricia, and no one needs to ask ''why.'' Even so, we know the Governor will be forceful spokesman on the Hill for all the governors.

They could not have a better representative. The Senate could not have a better exemplar. We could not have a better friend.

Mr. President, I would also like to pay tribute to two members of my Senate team who plan to leave us by the end of the year.

As our Sergeant at Arms, Greg Casey holds one of the Senate's highest positions of trust and authority. It is an awesome job, overseeing the hundreds of employees who keep the Capitol in operation.

There is also a ceremonial component to the position of Sergeant at Arms, and Greg has performed in that role admirably well.

But behind the formalities lie enormous operational responsibilities. It is not a job for the weak of will. Greg's performance has set, for all future occupants of his office, a new standard of energy, efficiency, and spirit.

By recognizing hard work and achievement at all levels, he has led the entire Capitol work force to become more professional, more modern, and more team-oriented.

Before appointing him Sergeant at Arms, I had the benefit of his managerial skills as administrative officer to the Majority Leader.

He helped me reassemble the office after Senator Dole moved on to other efforts. And before that, he had served for years as Chief of Staff to Senator LARRY CRAIG of Idaho.

That was a natural fit, for Greg is a classic Idahoan, like his State's two Senators, to whom he has been close since his college days. He is a doer, not a talker, and is undaunted by the challenges from which others shrink. He has done a great job for me, for the Senate, and for his country.

One of his chief concerns has been the security of the Capitol.

Even before the tragic events of last July, he had begun to enhance the safety of those who visit, and those who work in, this building.

We thank Julia, his wife, and their little boy, Greg Jr., for their sacrifice of the family time that means so much to them. And we share their happiness that they will now have more time together.

The second member of my team who will be leaving in the near future is Steve Seale, legal counsel to the Majority Leader.

Steve came to Washington a little more than two years ago at my request—and gave up a seat in the Mississippi Senate to do so. Even more of a sacrifice was moving, with Miriam and their two little girls, Caitlin and Elise, from their home in Hattiesburg to the wilds of Northern Virginia.

He has poured his heart into what can be a thankless task: guarding every line of the law, while telling those in authority what they cannot do.

In official Washington today, no one needs to be reminded of how important those functions are.

Steve has handled an array of judicial, legal, and constitutional issues for me; and I have not been alone in relying on his counsel.

I have deeply appreciated his loyalty, but I have valued even more his willingness to put the law—in all its complexity and with all its restrictions and limitations—before all else, including the convenience of person or of party.

Displayed on his desk is a hand-written note from his two daughters, which, with certain adjustments in spelling, reads like this: ''Dear Dad, come home for hugs and kisses.''

The Senate cannot beat that offer, and I do not begrudge Steve the opportunity to put family first. Indeed, many Members of Congress will envy him.

There is a saying among persons who have been on my staff, all the way back to my early days in the House of Representatives.

They say that, once you have worked for LOTT, you always work for LOTT.

I take that as a compliment, and I'm taking this occasion to let Steve know that, in his case, it is going to apply for a long, long time.

Mr. President, before we turn to other business, I should offer one final tribute.

When the American people tune in to our televised proceedings, they often see, here beside me or elsewhere on the Senate floor, a lovely young woman, tall, blonde, and beautiful. Her name is Alison Carroll McSlarrow.

What they cannot see is that she is smart, hard-working, savvy, dedicated, principled, caring, ingenious—a master of our legislative process, expert in our Senate rules, an astute advisor, and a persistent voice of conscience to do the right thing.

She came to the Senate after teaching grade school. That experience both reflected and strengthened her interest in children. It helps to explain her opposition to the destructive policies that have for so long dominated federal education programs.

As legislative assistant to Senator DAN COATS, as a Republican staffer in the Labor and Human Resources Committee—and as my chief floor assistant when I was the Majority Whip, she has had a major impact, not only on the processes we follow, but on the policies we have advanced.

Indeed, her determination to protect the health care of the American family had a great deal to do with the defeat of the President's plan to bring that sector of the economy under government control.

For the last two and a half years, she has been my deputy chief of staff. I have relied upon her for everything from vote counts to policy analysis, from parliamentary tactics to legislative strategy.

In her office hangs a framed series of photographs, taken when she was seated next to me here. As I made some expansive gesture, I somehow knocked her in the head.

Her composure never changed; mine did. She remained the consummate professional, doing her job above all else.

Before the 106th Congress assembles in January, Alison and her husband, Kyle, Senator COVERDELL's chief of staff, will have moved to Arizona, where he will be working for former Vice President Dan Quayle. It is hard to imagine my office without her.

I will miss her expertise, of course, and the way she stands up to me more than anyone else on my staff. I will miss her good humor and her idealism. And the Senate will miss her more than I can say.

She leaves with our gratitude, our admiration, and our love.

TRIBUTE TO STAFF

Mr. LOTT. Mr. President, I have to recognize some of my own staff members. Alison Carroll McSlarrow has been my deputy Chief of Staff for the past couple of years. She has done a wonderful job. I have tried to talk her out of getting married and then out of moving to Arizona. But Kyle

McSlarrow, who worked with me a while, and now works with Senator COVERDELL, swept her off her feet and now off to Arizona. I will never quite get over what he has done to me. They are a great and wonderful couple. Alison has come to be one of my most trusted aides. She is so competent. I have always been able to rely on her. I will miss her tremendously. I wanted to have an expression of my appreciation in the RECORD for her.

My counsel, Steve Seale, will be going downtown to work with a law firm, which will remain nameless for now. He is a close friend from my own State of Mississippi. He was a naval officer and he was a State Senator and had an outstanding law practice. He left that to come and work for me over the past 3 years. He has done an outstanding job. I wish him the very best in the future.

Last but not least, I want to especially recognize our Sergeant at Arms, Gregg Casey. Gregg had worked for, of course, our policy chairman, LARRY CRAIG. He did a great job with him as Chief of Staff. He is a very close friend of DIRK KEMPTHORNE, the other Senator from Idaho. He came to my aid when I became majority leader to try to help me get my office organized, as I was putting 3 separate staffs into one. He has a real talent for organization and getting an office set up where it can be administered properly. I had another emergency on my hands. We had a need for a new Sergeant at Arms and he agreed to not go back with Senator CRAIG and go into this position of Sergeant at Arms. Over the past 2, 2½ years, he has done a great job in my Senate office and as Sergeant at Arms. It has been difficult in many respects because there were problems that needed to be dealt with. He stepped up to the task.

Of course, we had the very trying experience when we had two of our own security people here in the Capitol killed. That week, I'm sure, is one that has been indelibly marked in Gregg Casey's mind—the horror of it and all that went on. Actually, through it all, a family atmosphere came out of it, and everybody felt a closeness. He did a great job in the aftermath of that and provided real leadership. I know he is going to have many great opportunities in the future. I thank Gregg Casey for a job well done as Sergeant at Arms. This place is better because of the service he has given.

THE NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT OF 1998

Mr. LOTT. Mr. President, I am very disappointed that there was an objection to the final passage of the National Salvage Motor Vehicle Act of 1998. This bipartisan consumer measure would have combated the growing and costly fraud of selling rebuilt salvage vehicles as undamaged used cars. This small, but important package would have saved consumers and automobile dealers more than $4 billion annually and would have kept millions of structurally unsafe vehicles off America's roads and highways.

As my colleagues are aware, the practice of selling salvage vehicles without disclosing their damage history has become a serious national problem—aided by titling requirements that vary from state to state. A significant number of our colleagues in this chamber recognized that the status quo simply is not working. Something needed to be done to protect used car buyers and automobile dealers all across America from title washing. This Congress took action to quell this anti-consumer plague that has preyed on unsuspecting victims for far too long. Unfortunately, the Administration killed this much needed consumer protection measure.

Mr. President, the House of Representatives, under the stewardship of Chairman TOM BLILEY of the House Commerce Committee, and Congressman RICK WHITE, the author of the House companion bill, passed most of the Senate's legislation on October 10 with bipartisan support. The House wisely chose to exclude a federal overlay system in addition to existing state branding procedures. This duplicative approach was strongly opposed by the American Association of Motor Vehicle Administrators which represents the very people who would administer the provisions of any auto salvage legislation.

Removing the proposed federal overlay was not taken lightly. The House took a serious look at a recent letter from the AAMVA which strongly objected to the concept of dual federal and state branding systems. Based on its analysis, the House concluded that the proposed federal overlay scheme would have created greater consumer confusion instead of achieving the legislation's intended purpose of enhancing information disclosure. At this time Mr. President, I ask unanimous consent to have printed in the RECORD the October 5, 1998 letter from the American Association of Motor Vehicle Administrators to House Commerce Committee Chairman TOM BLILEY.

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

AMERICAN ASSOCIATION OF
MOTOR VEHICLE ADMINISTRATORS,
Arlington, VA, October 5, 1998.

Hon. TOM BLILEY,
Chairman, House Commerce Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: On October 2, the Senate passed Bill 852, the National Motor Vehicle Safety, Anti-Theft, Title Reform, and Consumer Protection Act of 1997. Senate 852 incorporates the Levin amendment, which specifies a federal overlay of salvage terms and procedures. Under the federal overlay approach, a state which chooses to adopt the federal standards is free to also retain its current, inconsistent definitions and procedures with respect to salvage vehicles.

We understand that the bill will now be considered by the House/Senate Conference Committee. We believe that the federal overlay approach is unacceptable for three reasons:

1. It undercuts the important objective of uniformity in the handling of salvage vehicles;
2. Since participation in the federal standards is entirely voluntary for the states, the federal overlay approach serves no useful purpose, while undercutting the important goals of the bill; and
3. It creates an unworkable system.

Therefore, we request that the federal overlay system be stricken from the final bill so that the bill can achieve the important objectives which Congress, motor vehicle administrators, law enforcement, dealers and others have long worked toward. Even without the Levin amendment, Senate 852 already contains substantial compromises that address the concerns of proponents of the Levin amendment.

Specifically, the federal overlay approach creates problems including:

LACK OF UNIFORMITY

The federal overlay approach completely destroys the primary goal of the legislation: to move toward uniformity of definitions and procedures with respect to salvage vehicles. Such uniformity was the most fundamental of the recommendations of the Motor Vehicle Titling, Registration and Salvage Advisory Committee. In making this recommendation, the Advisory Committee was, in part, addressing Congress' mandate in the Anti Car Theft Act of 1992, which directed the Advisory Committee to ''include an examination of the extent to which the absence of uniformity and integration of State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to 'wash' the stolen character of the vehicle.''

During the advisory committee's deliberations, it was estimated that there were approximately 65 different words and symbols used in the states to designate salvage and other damaged vehicles, a jumble of terms creating problems for motor vehicle administrators, law enforcement and the consumers they both serve. Rather than moving us toward uniformity, the federal overlay approach raises the specter of actually adding to these 65 terms and symbols.

LACK OF BENEFIT

The federal overlay approach is particularly disturbing in that, given constitutional constraints, participation in the federal standards is voluntary for the states. Since there is no mandate on the states and since a state has to voluntarily adopt the federal standards in order to be affected by them, it is especially troubling that Congress would set up a system in which a state would have two inconsistent programs in place.

PRACTICAL CONCERNS

In our view, the federal overlay poses an unworkable and unrealistic result. Some examples of these problems are as follows:

1. Because the federal definition and the state definition would not be the same, a vehicle could meet the federal definition but not the state definition, or could meet the state definition and not the federal definition. In such a common circumstance, what is the consumer to understand from a title which tells him or her ''this vehicle is federal salvage but not state salvage'' or ''this vehicle is not federal salvage but is state salvage''?
2. If a vehicle is both federal salvage and state salvage, which procedures are to apply? These procedures include application, reporting timeframes, inspection, disclosures, branding, etc. and will, in almost all cases, be different under the federal standards than under the state standards.

3. If a vehicle is a ''flood vehicle'' under the federal standards, but is a ''salvage vehicle'' under the state standards (a very common result), do the flood procedures or the salvage procedures apply?

4. If an insurance company leaves a vehicle which meets both the federal salvage standard and the state salvage standard with the owner, which owner-retained procedure is to be followed?

5. Under the federal standard, a nonrepairable vehicle certificate is to be limited to two transfers. Most state laws do not contain a similar limitation. Does the federal standard or the state standard apply?

6. Under Senate 852, it is a crime not to apply for a federal salvage title. Under state laws, it is a crime not to apply for a state salvage title. How does an applicant avoid committing a crime if a vehicle is both a federal salvage vehicle and a state salvage vehicle?

ADMINISTRATIVE BURDEN

State departments of motor vehicles would be tasked with implementing many provisions of Senate 852 as amended. They would need to interpret this complex law and apply it consistently. Responsibilities would include determining the proper designations for state and/or federal branded vehicles, retitling the vehicles, explaining the dual designations to citizens, etc.

The burden of interpreting and maintaining two sets of standards could discourage states from even attempting to implement the federal provisions. For the states that do attempt to implement, it will cause a ripple effect of confusion and errors among states that do not implement.

The amended bill would also create a burden upon users of the National Motor Vehicle Title Information System. As additional variations of salvage brand codes increase, the possibility of misinterpretation would increase as well. The bill's provisions would also require modifications to technical system design, which would in turn require expenditures of resources by states, central file providers, service providers, and the system operator to accommodate.

There are dozens of other practical concerns with the federal overlay approach, but the above give a sense for the impracticality of the approach. The more difficult an approach is to administer and to understand, the easier it is for the unscrupulous to again ''work the system'' and for consumers to be defrauded.

If you would like additional information, please contact Larry Greenberg, Vice President, Vehicle Services, or Linda Lewis, Director, Public and Legislative Affairs, at 703/522–4200.

Sincerely,

KENNETH M. BEAM,
President & CEO.

Mr. LOTT. The motor vehicle administrators, the real front line experts on this issue, carefully and thoughtfully outlined their practical concerns with the proposed federal overlay approach.

First, the AAMVA letter noted that a federal overlay along with a separate state branding process undercuts the important objective of uniformity in the handling of salvage vehicles.

Second, since participation in the federal standards is entirely voluntary for the states, the federal ''overlay'' approach serves no useful purpose.

And, third, the letter pointed out that the federal overlay would create an unworkable, unmanageable system.

The AAMVA also cautioned in its letter that ''the burden of interpreting and maintaining two sets of standards could discourage states from even attempting to implement the federal provisions. For the states that do attempt to implement, it will cause a ripple effect of confusion and errors among states that do not implement.'' In my view, these are compelling arguments against adopting the federal overlay approach that was added when the bill passed the Senate on October 2.

Since the legislation was reported by the Senate Commerce Committee in November of last year, a large number of changes were made to the bill in an effort to address expressed concerns. Again, I would emphasize that the final title branding legislation included a number of significant changes to make the bill even more pro-consumer and to provide states with maximum flexibility. It closed the gaps that exist between conflicting state vehicle titling laws that allow dishonest rebuilders to perpetuate their fraudulent schemes without the need for a complicated, redundant, and burdensome federal overlay framework.

The bipartisan compromise package included:

A salvage threshold that was lowered from 80 percent to 75 percent.

A provision that allows states to cover any vehicle, regardless of age.

A provision that grants state Attorneys General the ability to sue on behalf of citizens who are victimized by rebuilt salvage fraud and recover monetary judgments for damages that citizens may have suffered.

With respect to the bill's ''prohibited acts,'' the Senate bill replaced the House's ''knowingly and willfully'' standard with a ''knowingly'' standard.

Two new prohibited acts, one related to making a flood disclosure and the other related to moving a vehicle or title in interstate commerce for the purpose of avoiding the bill's requirements.

Flexibility for the states to provide additional disclosures to their citizens regarding the damage history of vehicles; synonyms of the defined terms that a conforming state could not use in connection with a vehicle were deleted.

A provision that allows a state to establish a lesser percentage threshold for salvage vehicles if it so chooses. In other words, a state could set its threshold below the 75 percent level and still be in compliance with the provisions of the bill. Some consumer groups and some attorneys general advocated that states should be able to set their thresholds lower if they so desire. In the interest of compromise, we agreed to adopt that position.

The package that I just outlined clearly indicates that the supporters of the legislation proceeded in good faith to reach a reasonable compromise for an effective bill. A number of changes were adopted a long the way in effort to protect used car consumers from title laundering. Equally important, the changes preserved the right of the states to determine what is in the best interests of their citizens.

While I commend my colleagues in both chambers and from both sides of the aisle for passing versions of this important consumer protection legislation, I again want to express my regret that the Administration chose to oppose the National Salvage Motor Vehicle Act.

Now, instead of improving the hodgepodge of state titling laws, the Administration allows unscrupulous auto rebuilders to launder car and truck titles so they bear no indication of a vehicle's damage history. Perpetuating a costly fraud. A $4 billion annual consumer swindle.

Instead of endorsing this pro-disclosure measure and protecting Americans from title fraud, the Administration has allowed more wrecks on wheels to be put back on our roads and highways.

SUPERFUND RECYCLING EQUITY ACT

Mr. LOTT. Mr. President, I would like to express my personal disappointment that S. 2180, the Superfund Recycling Equity Act, was not enacted into law by this Congress.

The Lott-Daschle scrap recycling bill was cosponsored by 64 Senators and over 300 members of the House. It was strongly supported by the Administration, the environmental community and the scrap recycling industry.

Mr. President, the odds for success don't get much better than this.

S. 2180 would have provided much needed liability relief to those who collect scrap metal, paper, glass, plastic and textiles and arrange for it to be recycled. These are people who should not be held responsible for the pollution of a Superfund site. The Administration agrees. A majority in the Congress agrees. The environmental community agrees. This may be the one and only item within the scope of Superfund reform that has the unanimous support of all parties!

That's why, Mr. President, every comprehensive Superfund bill since 1994 has contained virtually the same language as is found in S. 2180. The same agreements, the same exemptions and the same relief.

I believe in recycling and in the American businesses that recycle. My colleagues on both sides of the aisle do too, and that's why we have come as far as we have towards bringing relief to this industry. No one in this Chamber would argue that it's better to make new aluminum cans than to recycle the old ones. No one would say that used cans should go to the county landfill while new resources go towards making new cans.

But that is just what this body is saying by failing to act on this legislation: Recyclers should be held liable for polluting a site because they provided the materials that created a product that someone else misused in

an environmentally damaging way. Is Congress content to let this stand? Should we continue to hold these innocent parties liable simply because the technical legal fix is a stand-alone bill excerpted from a comprehensive context?

Mr. President, I understand the desires of Chairmen CHAFEE, BLILEY and SHUSTER to pass real comprehensive reform. I have always supported their efforts to do so. However, I cannot believe that moving the recycling provisions separately endangers their ability to do a comprehensive bill. The recycling piece has never been the reason for fixing Superfund—and it has certainly never held back progress on a comprehensive bill. Recycling is, given the scope, a very minor part of the total package. Minor, but eminently important to those who continue to be forced into funding cleanups for which they are not responsible.

Mr. President, I am disappointed that some in the business community would rather see no action on Superfund than allow S. 2180's almost 400 Congressional cosponsors to realize a tiny step forward. There are over 2,600 recycling facilities nationwide who suffer because of this ''scorch the earth'' mentality. It is indeed a tragedy, Mr. President, that we cannot recognize this common ground, agree on a solution and move on.

Mr. President, I hope that in the 106th Congress, we will take a look at Superfund with new eyes. I know we can find ways to provide American businesses—both large and small—some relief. I know we can actually get some clean up done, instead of pouring federal and private sector money into lawyers' pockets. Let's make sure that the parties who mess up are the parties that clean up. That's the bottom line and the goal we all strive towards regardless of philosophy or party.

Mr. President, I would like to thank those members of the House and Senate who have been such an integral part of moving S. 2180 forward. First and foremost, I would like to thank the Minority Leader, Mr. DASCHLE, who has been a great partner and advocate throughout the process of moving this bill. It is good to know that we can team up on issues like these—I hope to continue to do so in the future.

I would also like to thank Congressman TAUZIN, our House sponsor, for all of his efforts. Without a concerted push from both chambers, it is doubtful that we would have come as close as we did.

I would also like to thank the Speaker, the White House and the EPA for their interest and support on this issue.

Finally, Mr. President, I would like to thank the Institute of Scrap Recycling Industries, Inc. (ISRI) for its input. Its membership were instrumental in highlighting the plight of recyclers to their Congressional representatives. I hope that they are willing to join us in putting a shoulder to the grindstone again next Congress.

Thank you.

INTERNET DOMAIN NAME REGISTRATION

Mr. LOTT. Mr. President, I am pleased that the Internet Tax Freedom Act was included in the 1998 Omnibus Appropriations bill.

Congress wants a limited moratorium, accompanied by a careful review of all Internet and electronic commerce tax issues. This will give Congress the opportunity to properly evaluate state and local government interstate taxation, federal taxation and trade treatment of the Internet and electronic commerce. By enacting this measure, Congress also declared that the Internet should be free of any new federal taxes during the moratorium.

Mr. President, present federal law imposes no tax specifically on the Internet, including domain name registrations. However, with several of my colleagues, I have become aware of a pertinent U.S. Federal Court case, Thomas et al v. National Science Foundation et al. In this case, the Court recently declared that Section 8003—Ratification of Internet Fees—of the Emergency Supplemental Appropriations Act of FY98 did sanction what had been previously found by the Court to be an unconstitutional tax on domain name registrations.

I want to take this opportunity to state for the record that Section 8003 was never intended by Congress to ratify a tax on the Internet, but only to address a fee for the Intellectual Infrastructure Fund. Let me be clear. Section 8003 was not an authorization of any tax, unconstitutional or otherwise.

Mr. President, I am pleased this Congress rightly recognized the importance of the Internet and electronic commerce to America's economy, and the need to eliminate uncertainty and confusion surrounding Internet taxation policies.

Thank you, Mr. President.

TRIBUTE TO THE SENATE STAFF OF THE 105TH CONGRESS

Mr. DASCHLE. Mr. President, as the 105th Congress comes to a close, I want to recognize some of the people without whom the Senate simply could not operate—the loyal staff who serve this institution day in and day out with great dedication and pride.

The sacrifices staff make are largely unknown to most people outside the Senate, except perhaps their families. When most of us leave for home after a late night, the Official Reporters of Debates, the Parliamentarians, the Bill Clerks, often face several more hours in the office to finish up that day's legislative work. Staff often work around the clock to finalize important legislative measures, such as the omnibus appropriations bill we just passed.

Anyone who understands the Senate understands the crucial role staff plays. Today, I want to thank all Senate staff for their service to the Senate and to the Nation.

In particular, I want to mention some of the people who are responsible for the daily operations of the Senate. I begin by expressing my gratitude to the office of the Secretary of the Senate. Gary Sisco, Secretary of the Senate, is responsible for some of the most important activities in the Senate such as the Official Reporters of Debates, the Legislative and Bill Clerks, the Disbursing Office, the Information Systems and Computer Staff, the Senate Page School, the Historical Office and many other vital offices in the Senate. He has done a wonderful job of overseeing and improving the delivery and quality of services of those offices. I appreciate the professionalism and even-handedness he has exhibited throughout the 105th Congress. Gary is ably assisted by Jon Lynn Kerchner, Lura Nell Mitchell and Beth Collett.

Gregory Casey, who will be leaving the Senate shortly, has demonstrated tireless dedication to the Senate in the execution of his many responsibilities as Sergeant at Arms of the Senate. I'm thankful he didn't have to arrest any of us during his tenure as Sergeant at Arms and I commend him for his excellent management of a very large and complex operation. We will miss Greg and wish him the very best in the challenges that lay ahead. The Sergeant at Arms has been supported by the capable assistance of the Deputy Sergeant at Arms Loretta Symms and Larry Harris, his Administrative Assistant. The Sergeant's office is also assisted by the work of Becky Daugherty, Laura Parker, Carol Kresge, Mallory McCaskill and Laura Rossi.

I would like to give special thanks for the hard work and consummate professionalism of Jeri Thomson, the executive assistant for the minority, who has provided invaluable assistance to my Democratic colleagues and to me.

I would also like to thank the staff of our Capitol Facilities office, directed by Roy Banks, who keep this building and our offices clean and are always available, often on very short notice, to provide logistical support for the numerous meetings and gatherings we hold in the Capitol.

All Senators, I am sure, are grateful for the counsel and support they receive from the staff who work the Senate floor and cloakrooms. That assistance has become even more valuable to me since I became Democratic Leader.

Our Democratic floor staff works under the excellent leadership of Marty Paone, the Secretary for the Minority. Under great pressure, often with little time and with little margin for error, Marty has time and again provided wise counsel to all Senate Democrats—and even Republican Senators, on occasion. Despite the pressures, Marty always finds time to respond to questions from Senators and staff alike—everything from the routine questions about timing of votes to the most complex analysis of parliamentary procedure. The rare combination of a sharp mind,

even temperament, and in-depth experience make Marty one of the most valuable officers of the Senate, and I want to thank him and recognize him for that. In the Secretary's office, Marty is ably assisted by Sue Spatz and Nancy Iacomini.

Day-to-day management of the floor operation is in the capable and energetic hands of Lula Davis, the Assistant Secretary to the Minority. Lula's ability to juggle multiple tasks—from negotiations over bills that we seek to clear by unanimous consent, to advising Senators and staff on legislative strategy, to acting as informal fashion adviser to many of my colleagues—demonstrates her tireless dedication to making things work around here. Marty and Lula are joined by Democratic Floor Assistants, Gary Myrick and Paul Brown, who have done a wonderful job helping to move legislation and protect Senators' interests. I am profoundly grateful for their dedication, their vigilance and their intellect. They are all ably assisted by Alice Aughtry.

Our Democratic Cloakroom staff, Paul Cloutier, Brian Griffin, Brian Erwin and Tricia Engle also provide invaluable assistance in many aspects of our Senate life. Among other things, they field countless queries about what the Senate is doing and when votes will occur, including that age-old question, ''Will there be any more roll call votes tonight?''. They help us stay on schedule and where we are supposed to be, all the while keeping track of the flurry of legislation that moves through here, and keeping most of us entertained. I salute them for their hard work and good humor and thank them for their assistance.

It is no exaggeration to say that our ability to navigate the complexities of Senate rules and procedures would be impossible without the assistance of our Parliamentarians. Senate Parliamentarian Bob Dove, with the outstanding assistance of Senior Assistant Parliamentarian Alan Frumin, Assistant Parliamentarian Kevin Kayes, and Parliamentary Assistant Sally Goffinet, provides essential expertise and understanding of Senate procedure.

Our growing C–SPAN audience has no doubt become familiar with the commanding voice of Legislative Clerk Scott Bates and his assistant David Tinsley; Bill Clerk Kathie Alvarez has also become a notable presence. Kathie is assisted in her duties as Bill Clerk by Mary Anne Clarkson and John Burnham. Our legislative and bill clerks deserve the thanks and respect of all Senators for their keen attention to detail and their patient professionalism.

Journal Clerk William Lackey and his assistants Patrick Keating and Scott Sanborn; Enrolling Clerk Tom Lundregan and his assistant Charlene McDevitt; Executive Clerk David Marcos, 1st Assistant Executive Clerk, Michelle Haynes and assistants Ken Dean and Terry Sauvain; Daily Digest Editor Thomas Pellikaan, Assistant Editor Linda Sebold, and Staff Assistant Kimberly Longsworth, all have my gratitude for their long hours and hard work.

I also would like to thank and commend again our official Reporters of Debates for their hard work: Chief Reporter Ronald Kavulick and Coordinator of the CONGRESSIONAL RECORD, Eileen Milton; Morning Business Editor Lee Brown and Assistant Editor John Merlino; Expert Transcribers Angela Gallacher, Alma Kristoffersen and Bernita Parker; and the Official Reporters of Debates: Jerald Linnell, Raleigh Milton, Joel Breitner, Mary Jane McCarthy, Paul Nelson, Katie-Jane Teel, and Patrick Renzi.

I also want to thank our Senate Doorkeepers, directed by Myron Fleming and Krista Beal for the friendly and helpful attitude they bring to their jobs, often in the face of long and uncertain hours. Without their assistance and that of all of our Senate support staff, our work simply could not get done.

Last, but certainly not least, Mr. President, I want to thank my own staff—in South Dakota and in Washington—and the staff of the Democratic Leadership Committees, whom I share with Senators REID, ROCKEFELLER, and KERRY. These bright, talented people are dedicated to the effort to serve the people of South Dakota and the Nation, as well as every Democratic Senator and their staffs. They do a tremendous job, and I owe each of them a debt of gratitude.

THANKS TO ERSKINE BOWLES

Mr. DASCHLE. Mr. President, Erskine Bowles will soon leave his post as White House Chief of Staff. He will return to his beloved North Carolina. He returns to his family; his remarkable wife, Crandall, and his exceptional children, Sam, Annie and Bill. If you know Erskine Bowles, you know that his heart has never left them through all his time in Washington. His home and his family are the pride of his life.

But as Erskine prepares to leave his post, he has a right to feel deeply proud of all he has accomplished here, as well. In so much of the progress made during President Clinton's Administration, you see the steady hand and clear vision of Erskine Bowles.

He came to the Capital little known to most of us. He had no experience in the so-called ''ways'' of Washington. Yet before long, the President realized Erskine was the man for the toughest job in town.

The President's confidence in this choice has been soundly ratified. Erskine leaves here a true friend to every one of us in the Democratic Caucus. He has earned the respect and admiration of Senators on both sides of the aisle. Most importantly, he has put the interests of the country ahead of the problems and politics of public life. By giving of himself—his time and his talents—millions of American families are better off today than they would have been had Erskine never come to Washington.

Jobless men and women now support growing families. Those workers have higher wages. Those wages have helped fuel a roaring economy. Those families can afford to buy their own homes. Those parents can send their children to college. Those children can share in the promising future that Erskine Bowles helped build.

Mr. President, earlier today, we passed a massive budget bill. Some have found fault with that bill in both substance and process. Some of that criticism is justified. But, I, for one, am relieved that during this unfortunate process, the country had Erskine Bowles negotiating the substance. Due in large part to Erskine Bowles, there will be 100,000 new, qualified teachers helping our children get the education they deserve.

There is another important provision in the bill worth noting. For tucked in that $500 billion package, there is funding for the operations of the White House. And from the money dedicated to the salaries of the White House staff, Erskine Bowles takes one dollar a year.

So as we send that bill to the President for his signature, I will take pride in its support for 100,000 teachers; in its protections for our environment; and for the emergency relief it will bring to our farm families.

I will also support it for what it represents: Erskine Bowles' salary—probably the smartest single dollar this government has ever spent.

On behalf of all my colleagues, we honor the service of Erskine Bowles, and wish him and his family the very best in the good days that lie ahead.

TRIBUTE TO CHAIRMAN XAVIER BECERRA

Mr. DASCHLE. Mr. President, as we bring our legislative session to an end, it is appropriate that we pay tribute to an American leader, the outgoing Chair of the Congressional Hispanic Caucus for the 105th Congress, and my friend, XAVIER BECERRA.

Our Nation is fortunate to have an actively engaged Congressional Hispanic Caucus to ensure that more Americans have the opportunity to enjoy the rewards and responsibilities of American citizenship. Their efforts have succeeded in increasing educational opportunities for Hispanic Americans, promoting fairness in our judicial system, and protecting political participation vital to our democracy. Millions of people have benefited from effective leadership provided by the Congressional Hispanic Caucus, and in particular, by Mr. BECERRA.

XAVIER BECERRA was first elected to represent the 30th District of California in November 1992. In 1997, Representative Becerra was elected to serve as Chairman of the Congressional

Hispanic Caucus. Under his chairmanship, educational opportunities for Hispanic Americans have grown considerably: Hispanic Serving Institutions have received record-level funding, bilingual education programs once threatened have been strengthened, nearly $500 million has been allocated for the President's Latino Education Plan, and equal access to technology for students in rural and urban centers has been enhanced through the e-rate program.

Chairman BECERRA has demonstrated great leadership and distinguished himself as powerful legislative voice in pushing for a positive agenda that includes expanding health care, reducing the naturalization backlog at the INS, promoting fairness in our judicial system, ensuring a fair and accurate census, and protecting voting rights.

It has been a privilege for the Democratic Caucus to work with Chairman Becerra and his fellow members of the Congressional Hispanic Caucus. I am going to miss the leadership of Chairman XAVIER BECERRA, but I look forward to his continuing friendship and to developing a strong working relationship with the next Chair of the Congressional Hispanic Caucus.

COMMUNITY BROADCASTERS PROTECTION ACT OF 1998

Mr. FORD. Mr. President, the 105th Congress is likely to adjourn without enacting S. 1427, the Community Broadcasters Protection Act of 1998. Even so, I want to provide my colleagues a status report on the bill and advise them of the prospects for passage next year.

The principal purpose of S. 1427 is to provide permanent ''Class A licenses'' for low-power broadcasters. Currently these broadcasters have secondary status, which means that they can be bumped from their place on the spectrum by a full-power station. Without permanent status, these broadcasters have a hard time obtaining long-term capital.

After introducing this legislation last year, I worked with the staff of the Federal Communications Committee to refine the bill. In pursuing this matter, I have sought to provide a degree of certainty for low power broadcasters without creating any unintended consequences for other users of the spectrum. The result, which was reported from the Senate Committee on Commerce, Science, and Transportation on October 1, has achieved that goal.

The core mission of low power broadcasters is to provide programming for local communities that are not served by full power stations. These underserved communities may be in rural areas or in large metropolitan areas. In my state, we have a low-power station that provides programming that is geared to the interests of rural Kentuckians. However, in Washington, D.C., low power broadcasters provide Spanish language programming to meet the needs of the Hispanic population in this area.

The FCC has recognized the unique role that community broadcasters play in providing programming to underserved audiences. Earlier this year, when I asked Chairman Kennard for his comments on the legislation, he responded favorably. Chairman Kennard said, ''Having reviewed the legislation, I have no major concerns with the bill.''

Mr. President, I would like to thank Senator MCCAIN, the chairman of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS, the ranking Democrat on the committee, and my other colleagues on the committee for their support of this legislation. As of today, 13 members of the Commerce Committee have joined as cosponsors. Also I want to express my appreciation to Senator BURNS, the chairman of the Communications Subcommittee. Senator BURNS has cosponsored S. 1427, and he has advised that he will introduce this legislation when the 106th Congress convenes next year. I thank my colleague for his continued interest in and support for community broadcasters. I am very pleased to leave this legislation in the capable hands of the Senator from Montana.

Mr. BURNS. Mr. President, I thank the Senator from Kentucky for his remarks and want to confirm that I plan to introduce this legislation next year. Also, I want to congratulate Senator FORD on his efforts on this legislation. Due to his persistence, much of the preliminary work on this bill has been done. While we will miss his presence on the Commerce Committee next year, we will continue to benefit from his work as a member of this body.

Mr. FORD. Again, I thank the Senator from Montana and wish him luck in this effort next year. The community broadcasters of the nation have earned a permanent place on the broadcast spectrum.

THE SENATE SAYS GOODBYE TO SENATOR DIRK KEMPTHORNE

Mr. BYRD. Mr. President, when one speaks of the State of Idaho, we think of her glorious and rugged landscape, her fertile valleys, her waters ideal for fishing, her world-class ski resorts, her national parks and forests, with land fit for hiking, or biking, and, of course, her reputation as the potato capital of the world. Following the end of the 105th Congress, I daresay that our associations to the State of Idaho will also include the name of DIRK KEMPTHORNE, the state's junior Senator and one of this body's most respected Members. Although our friend from the west is leaving the Senate after only one six-year term, I, for one, will remember him fondly for years to come.

Senator KEMPTHORNE and I formerly served together as Chairman and Ranking Member, respectively, of the Personnel Subcommittee of the Armed Services Committee. We worked together to introduce legislation requiring the study of gender integrated training in the military. That association has been pleasant, and, I believe, productive. To be sure, I have not always agreed with his policy proposals, or he with mine. On many issues, including the balanced budget constitutional amendment and the unfunded mandates legislation, we have held opposing views.

Throughout the lengthy debate on the unfunded mandates bill in early 1995, the Senator was conscientious, thorough, and fair. His grace and courtesy in managing that bill were impressive, particularly for someone so new to the Senate. And, as we all know, his efforts paid off after deliberate consideration and compromise. Moreover, with passage of the unfunded mandates bill, Senator KEMPTHORNE holds the honor of being the most junior member of the Senate since World War II to author, manage, and win passage of a bill numbered Senate Bill One.

When he leaves these hallowed halls, Senator KEMPTHORNE will return to his home state. Boise, of course, is familiar ground for Senator KEMPTHORNE, serving as that city's forty-third Mayor, from 1985 until 1992, when the people of Idaho elected him to his present seat in the Senate. Incidentally, he became so popular during his first term as Mayor that he faced no opposition in his bid for a second term! How many of our colleagues would like to be in that situation? How many of us would like to be so universally popular, and be held in such high respect by our constituents, that such popularity and respect would foreclose potential challengers?

I congratulate Senator KEMPTHORNE on his fine service here, and I wish him and his nice family happiness in future years.

DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT

Mr. HATCH. Mr. President, 14 years ago, when I served as Chairman of the Senate Labor and Human Resources Committee, I teamed up with Representative HENRY WAXMAN, Chairman of the Subcommittee on Health and the Environment of the House Energy and Commerce Committee, to lead passage of the Drug Price Competition and Patent Term Restoration Act of 1984.

The bottom line of this law was to improve the health of the American people. The statute accomplishes this in two primary ways: First, it essentially created the market for more moderately priced generic drugs by allowing generic manufacturers to demonstrate their equivalence to pioneer products without duplicating all of the original safety and efficacy data. Relieved of this costly burden, generic drug firms can provide their products at competitive prices which are attractive to many consumers.

Second, pioneer drug firms became eligible for restoration of some of the patent term lost due to the extensive

FDA review of safety and efficacy that all new drugs must undergo. This partial restoration of patent term—up to five years in certain circumstances when such restoration would not result in a greater than 14 year effective patent life—allowed pioneer drug firms additional time to recoup the enormous investments required to bring a new drug to market. This helped attract the investment capital that pioneer firms need to develop the next generation of life-saving drugs.

Consumers benefit from this win-win dynamic because the American public gets both new drugs and competitively priced off-patent medications.

As we start the 15th year since the enactment of this important health and consumer law, we have a generic pharmaceutical sector that has developed into an integral part of the health care system, which together with innovator pharmaceutical and biotechnology companies lead the world in the development and marketing of new health care products.

While I think that the track record of the Hatch–Waxman Act is enviable, I hope that we can even do better for the American public in the future.

Accordingly, I intend to devote time during the next Congress to begin the necessary examination into how we can make changes in the law that will increase our ability to produce both the innovative products that we have come to expect and the lower priced generic products that are so attractive to the family budget.

I intend for this examination to include a serious study of how well the Drug Price Competition and Patent Term Extension Act has functioned over the past 14 years, whether the Act has fulfilled its initial promise, how the courts have interpreted the Act, and indeed, how it has been implemented. I hope to work closely in this endeavor with my good friend and colleague Senator JIM JEFFORDS, Chairman of the Labor and Human Resources Committee, which shares jurisdiction over the Act with the Judiciary Committee.

A major test of such a review will be to assemble a package of initiatives that will retain the delicate but essential balance between the innovator and generic sectors of the industry. This will be a difficult task but it is a worthwhile endeavor for the American people.

Even during this session of Congress, some have proposed changes to our nation's drug discovery laws. There has, for example, been some discussion about changing one of the most controversial provisions of the 1984 law—the so-called Bolar Amendment. Section 271(e) of the Title 35, contains language to overturn a 1984 Federal Circuit Court of Appeals ruling in the case of Roche v. Bolar Pharmaceutical Co., which held that conducting the tests required to secure approval of generic copies of pioneer drugs constituted patent infringement. Section 271(e)(1) establishes an exception to patent infringement laws to authorize generic pharmaceutical companies to conduct testing on patent approved pharmaceutical products for purpose of filing an abbreviated new drug application.

Recently, the application of section 271(e)(1) has been a matter of some controversy in an on-going legal battle between two pioneer drug firms, one company holding existing patent protection and FDA product approval and the other company asserting its own patent rights and seeking pioneer rather than generic approval from FDA. While ultimately the courts must decide whether this is a case of patent infringement, it is clear that this is not merely a simple, garden variety patent infringement case because it also raises the question of precisely what type activities that section 271(e)(1) should allow, and should not allow, in the context of developing not only generic drugs but new drugs and biologicals that they potentially compete directly with.

While I do not take a position on the merits of the actual patent rights in dispute in the current Amgen v. Hoechst Marion Roussel litigation, I must say this case is of some concern to me, especially with regard to court's initial findings which are not consistent with, and broaden, Congress' intent in enacting 271(e).

I do believe Congress would be wise to reassess the breadth of section 271(e)(1) in light of this and a number of court decisions since 1984 that have tended to expand the scope of this provision. One case in particular is the 1990 Supreme Court decision in Lilly v. Medtronic.

My position on these questionable decisions has been clear for some time. I was, in fact, a signatory to an amicus brief in the Lilly case that argued for a somewhat narrower interpretation of 271(e)(1) than has evolved in the courts.

One proposal worthy of serious consideration is to more clearly limit the applicability of 271(e)(1) to exclude testing and other activities necessary for approval of NDAs and BLAs from the patent infringement exemption. Of course, the 271(e)(1) question is only one of many issues that will undoubtedly be proper for further discussion in the next Congress.

Some are concerned about whether drugs that were already in FDA review at the time of enactment of Hatch–Waxman (the ''pipeline drugs'') have received adequate and fair patent protections in view of subsequent delays that were encountered. Congress should undertake complete review of this proposal during our study of Waxman–Hatch next year, as I believe the evidence will show that there are inequalities we should take steps to remediate.

Others are concerned about the application of the 180 day generic drug exclusivity rule in the aftermath of the Mova decision. Indeed, some are advocating report language that will give FDA new leeway to adopt a ''first-to-succeed'' in patent litigation approach rather than the ''first-to-file'' an ANDA that the courts have found.

Frankly, I have concerns about the current outcome whereby some ANDA applicants appear to be handsomely rewarded by pioneer firms for not selling generic competitors.

Still others advocate in the spirit of international harmonization adopting the European rule of a 10 year marketing exclusivity period for all new drugs. And others point out that the advent of the new GATT-required 20 year from filing patent term may change the traditional incentives in coordinating PTO and FDA approvals.

It is time, some argue, to do away completely with current rule by which only 5 years of patent life may be restored to compensate time lost at FDA and only if the effective patent term does not exceed 14 years. Some would also like to revise the rule that limits patent restoration for time lost during the IND phase in a for each 2-days lost, 1-day restored ratio.

On the generic side of the industry, there is concern that as NDA approvals speed up due to user fees, generic approvals continue to lag and take much longer than NDAs. There is also great frustration about what some describe as challenges to the bioequivalence of generic products that are more a delaying and harassing tactic than a bona fide scientific dispute.

And then, there are those in the generic industry who believe that FDA's Orange Book, which records the patents in effect for FDA approved drugs, should be renamed as the ''Evergreen Book''!

So there are many issues that merit consideration as we reassess the adequacy of the laws pertaining to the generic and pioneer sectors of the pharmaceutical industry.

Our focus should be on ascertaining what steps we can take that will most benefit the American people in terms of providing incentives both for the development of new drugs and the production of competitively priced generic products. This has and will continue to require a delicate balance. There is an inherent tension between the twin goals discovering the next generation of drugs while at the same time providing generic versions of today's medications.

My goal is to reconcile these somewhat conflicting but wholly meritorious goals in the interest of the American people, and I look forward to working with my colleagues in the House and Senate on this complex issue next year.

TRIBUTE TO ALLEN GARTNER

Mr. LEAHY. Mr. President, Allen Gartner is one of Vermont's real citizen treasures. He was recently honored by the Rutland Region Chamber of Commerce on their 100th anniversary. I ask unanimous consent that a letter I

wrote and an article about this honor be printed in the RECORD.

The whole Gartner family represent the best of Vermont and Marcelle and I value their friendship.

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

PATRICK LEAHY,
U.S. SENATOR,
October 1, 1998.

RUTLAND REGION CHAMBER OF COMMERCE,
North Main Street,
Rutland, VT

DEAR FRIENDS: My mother was wrong.

She always told me that if I wanted something done right, I should do it myself.

What I learned a little later in life was that if I REALLY wanted something done right, I needed to ask Allen Gartner to do it.

Allen personifies Rutland—his love of his family, his sense of the broader community, his deep spirituality, and his sense of the broader community of which we are all a part. Most important for his friends in Rutland and all over Vermont is an indomitable sense that if you work hard enough, and if your cause is just, anything is possible.

It is fitting that Allen is honored by a group as respected as the Rutland Region Chamber of Commerce. But Allen, by the life he leads, the work he does and the joy he brings to others, honors all of us every single day.

Sincerely,

PAT.

[From the Rutland Daily Herald, October 5, 1998]

ALLEN GARTNER, BUSINESS LEADER WITH A SENSE OF CHARITY

(By Laurie Lynn Strasser)

''Tzedaka'' is the most important word in the Hebrew language, Mintzer Brothers co-owner Allen S. Gartner said last Thursday after receiving the 1998 Business Person of the Year award from the Rutland Region Chamber of Commerce.

It means ''charity.''

''I was raised that this is the greatest country in the world, by a long shot,'' said Gartner. ''It was our obligation to give back to the community. My parents not only spoke those words, but they lived by those words.''

In conferring the honor, Rutland Chamber of Commerce Executive Vice President Tom Donahue rattled off a litany of boards that Gartner has served on. Donahue added that if he listed all the extracurriculars and charities Gartner had helped, ''this luncheon might turn into a dinner meeting.''

In an interview afterward, Gartner said he felt honored by the award, but that recognition was not the point.

''Whatever I'm doing, I need to do because that's what people should do,'' he said. ''The bottom line of business is not what's important. That's not what we're on this planet for. We're only here a speck anyway. Really, it's just a blip. What's important is the welfare of the community.'' His father, the late Walter Gartner, used to say that the best form of giving is anonymous. His father made it out of Nazi Germany in the nick of time, but lost the rest of his family to the Holocaust. After World War II, he married and bought Mintzer Bros., a fuel oil and grain business that had been founded in 1926.

Walter Gartner's wife, Margot, gave birth to Edward in 1945 and Allen in 1949.

The younger Gartner still recalls the days when customers bought berry baskets, syrup cans and laying mash. By the early 1960's, the emphasis had switched to building supplies.

Gartner worked at the Strongs Avenue store in the summers between his graduation from Rutland High School in 1967 and Union College in 1971.

He spent his junior year abroad in France. Just last year, he returned to Paris for an emotional reunion with his host family. The people he last saw as teenagers are now in their 40s, he noted.

Gartner earned a bachelor's degree in political science and modern languages.

''I have a passion for politics,'' he said. ''To me, politics is conflict and compromise.''

He went on to pursue an advanced degree at New York University Law School, although he never intended to become a practicing attorney.

''I spent the first 20 years of my life trying to be a peace-maker,'' he said. ''The first day of law school, the professor's asking, ''What would your argument be? It was always antithetical to what I believed, but it was good education. I refer to my law school education almost every day of the week.''

It wound up taking him seven years to finish at NYU because his father had suffered a stroke. Living with relatives on Manhattan's Upper West Side, he would attend graduate school then work for one semester each year.

''I'd go down to the pay phone in the basement of the law school library and make phone calls for the business,'' he recalled. ''I'd do this every day, buying and selling lumber, calling customers.''

Gradually, he and his brother, Edward, took the reins from their father. Walter Gartner died in 1983.

The brothers opened another Mintzer branch in Ludlow in the early 1980s. Three years ago they expanded again into the Route 7 south space vacated by Grossman's after it went out of business.

In the coming year, Mintzer Bros. may face its toughest challenge in 70 years. Home Depot, the largest hardware chain in the world, has indicated an interest in opening a large store in Rutland.

''Big orange is a dose of reality,'' he said referring to Home Depot's theme color. ''You've got to fight the good fight, fight it as best as you can. Business today is war. I'm not sure I'm cut out for war.''

Gartner was instrumental in recruiting area merchants to form Rutland Region First, a grassroots organization whose goal is to stop Home Depot from locating in the area.

No matter what happens with the business, it is important to keep perspective, said Gartner. He has faced worse hardships, including the loss of his firstborn daughter when she was six days old and chronic back pain for the past 17 years. Financial challenges are not as important as keeping his family intact, Gartner said.

Just like when he was growing up, Gartner still plays the role of peaceseeker, but these days he has taken the quest to an international level.

Last week, he met Palestinian leader Yasser Arafat, who was in Washington, DC, to parley with Israeli Prime Minister Benjamin Netanyahu.

''It pains me to see Palestinians mistreated,'' he said. ''I'm a Zionist, but I think we've got to live together.''

Committed to the Middle East peace process for the past decade, he shaved off his beard when he learned of the historic 1979 accord between Israel and Egypt. When Yasser Arafat signed a treaty with the late Isaac Rabin in 1993, Gartner was there on the south lawn of the White House.

''It was a most emotional moment for me,'' he recalled, describing weeping Jewish and Arab Americans throwing their arms around each other.

RECOGNITION OF MARY LOUISE SINCLAIR

Mr. SPECTER. Mr. President, I have sought recognition to honor a special member of my staff who is retiring from government service at the end of the 105th Congress.

Mary Louise Sinclair has served with loyalty and with distinction in the United States Senate family for nearly 36 years. During the course of her service in the Senate, Mary Louise has worked for some notable members of this body. She has worked for Senator Everett Dirksen as a secretary from 1962 to 1970. She then joined the staff of Senator Robert Taft as the office manager and secretary, where she stayed for his full term until 1977. My fellow Pennsylvanian, the late Senator John Heinz, was also privileged to have Mary Louise on his staff as a special assistant for a remarkable 13 years from 1978 to 1992, and since 1993, Mary Louise has served with distinction as my Executive Secretary.

Through her dedication and diligence, Mary Louise has enabled me to maximize my efficiency to ensure that I am in the best position to represent Pennsylvania. For that, my staff, my constituents, my family and I are very grateful.

I applaud her service and offer her, on behalf of my Senate colleagues, our goodwill and best wishes upon her retirement.

RECOGNITION OF STAFF

Mr. SPECTER. Mr. President, I would also like today to recognize the efforts of my staff in my personal office and State offices, who help me each day in responding to the needs of 12 million Pennsylvanians and countless other Americans who write, call or visit. I have long said that I believe I have the best staff in the Senate, and I want to convey my appreciation publicly for the work they do on behalf of the taxpayers.

Thus, as the work of the 105th Congress comes to a close, I extend my thanks to David Urban, Gretchen Birkle, Molly Birmingham, Kristin Bodenstedt, Jane Brattain, David Brog, Mark Carmel, Allison Cooper, Juliette Cox, Alli DeKosky, Aura Dunn, Jeff Gabriel, Cathy Gass, David Grindel, Peter Grollman, Patricia Haag, Andrea Haer, Alegra Hassan, Kevin Mathis, Pam Muha, Anthony Pitagno, Dan Renberg, Charlie Robbins, Jill Schugardt, Mary Louise Sinclair, Seema Singh, Erin Streeter, Jim Twaddell, John Ullyot, Ron Williams, and Chris Wilson of my Washington office.

Similarly, I appreciate the efforts of my Pennsylvania-based staff, which includes Ken Braithwaite, Mary Clark, Anthony Cunningham, Patty Doohan, Kenny Evans, Carmen Santiago, Banita Sharma, Gil Stein, Bella Straznik, Corene Ashley, Stan Caldwell, Katherine Risko, Doug Saltzman, Salena

Zito, Lynda Murphy, Tom Bowman, Joe Connolly, Steve Dunkle, Joan Mitchell, Mary Jo Bierman, Andy Wallace, and Vincent Galko.

THE CONSERVATION TRUST OF PUERTO RICO

Mr. ROTH. Mr. President, before we adjourn, Senator MOYNIHAN and I would like to speak to an issue that has yet been unable to be resolved—the funding for the Conservation Trust Fund of Puerto Rico. The Conservation Trust was created in 1968 for the protection of the natural resources and environmental beauty of Puerto Rico.

The Trust lost much of its funding as a consequence of the decisions to phase-out section 936 and eliminate the Qualified Possession Source Investment Income (also known as ''QPSII'') provision in the tax code. I hope that Congress and the Administration will continue to work together to find an equitable solution that will permit the Trust to continue its protection of the environment in Puerto Rico.

Mr. MOYNIHAN. I agree with the distinguished Chairman of the Finance Committee. I would also point out that both the funding for the Conservation Trust and the opportunity to provide much needed monies to Puerto Rico and the Virgin Islands could have been accomplished by including the Administration's rum ''cover over'' proposal as part of the tax extenders package in the omnibus appropriations measure.

The needs of Puerto Rico, and the importance of this provision, were magnified by the devastation recently caused by Hurricane Georges. Despite significant bipartisan support in the Senate and the House, and a strong push from the Administration, for some reason the House refused to include this provision in the bill. I thank the Chairman for the opportunity to work with him next year to address this issue.

NATIONAL SECURITY PLANNING

Mr. WARNER. During the past two weeks, the Senate Armed Services Committee has conducted hearings on the readiness of the armed forces. Through testimony from the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the service secretaries, it has been revealed that the military is trained and being asked to perform beyond capacity. The readiness of the armed forces is clearly and unmistakably suffering. For the past several years, this has been the concern of many of the committee and in the Senate, myself included, and we have made every argument during this precipitous decade-plus decrease in defense budgeting to reduce the cuts, arguing that we've cut well beyond the fat and the flesh, and have long been cutting into the bone.

This situation is now receiving the priority so long overdue. Approximately $7 billion of the emergency spending supplemental currently being debated is for immediate defense readiness funding shortfalls. This is, however, only a stop gap measure, and must be the first step in a long journey to ensure the military is properly exercised and outfitted to defend U.S. national security interests.

If we are to responsibly correct this readiness shortcoming, then we must look to the root cause or causes. I believe, as do several of my colleagues on the armed services committee, and others in the Senate, that the primary and foremost reason for the readiness shortfall is an incongruity between the foreign policy goals of this administration, the strategy, and the resources to achieve those goals.

While defense spending is at an historical low, the armed forces are being exercised and deployed in ever increasing frequency and with less and less direction. Earlier this year, for example, Admiral Conrad Lautenbacher gave the remarkable statistic that since the demise of the Soviet Union and the end of the Cold War, the Navy-Marine Corps team alone has been involved in 93 naval contingencies in 96 months. That is an average of almost once a month that the Navy-Marine Corps team has been involved in a contingency of importance to our national security.

As the Congress prepares to adjourn, we do so in a world laden with instability, one which will demand U.S. leadership and engagement. In Kosovo, refugees—numbering nearly a quarter of a million—are fleeing from Kilosevic's forces. They are cowering in the mountains where the harsh winter of the Balkan mountains will kill thousands more, or they are flooding neighboring countries for relief—but finding those countries ill-equipped to support them. I am confident NATO, under U.S. leadership, will soon take action to end the strife action which will require the deployment of a ground forces in Kosovo—with some U.S. participants in view of having an American commander of NATO.

Israel remains the flashpoint in the Middle East, but others come and go. Turkish troops are massing on the Syrian border, preparing to defend a pre-World War II territory claim and retaliate to any Syrian opposition in force. The Taliban, having secured a religious revolution in Afghanistan, have engaged Iranian forces along their common border in an escalating war between two sects of Islam.

While the Gulf War has been over for seven years, Iraq, in defiance of the world community, continues to remain armed. Two months have passed since Saddam Hussein prohibited officials from the United Nations Special Commission on Iraq from conducting inspections. Further, the testing of Vx gas by Iraq has been corroborated by independent tests in France. Questions, credible ones, still arise over their nuclear posture.

Worldwide, a proliferation of nuclear technology and the proliferation of the means to deliver weapons of mass destruction is unnevering. India and Pakistan now have the bomb, and unfortunately, like so many other neighbors in the world community, they also have the motive to use it against each other. The launch of the Taepo Dong 1 by North Korea was a clear and unmistakable ''shot heard round the world.'' Such an action by a militarized, secretive, isolated, country in the throws of an overwhelming economic depression, by a people increasingly in despair, is a harbinger of catastrophe.

This is but a brief summary—a few examples to illustrate where I see continuing and emerging challenges to United States national security interests. Clearly, the end of the Cold War was not peace, but a transformation of the world's politico-military order with unsettled ancient conflicts based on ethnic, religious or tribal differences and interests against emerging. These threats require our continued vigilance and must be our highest concerns.

It is in this context that former Secretary of Defense, Dr. James Schlesinger, examines the current administrations ability to meet these threats given current U.S. force structure and the resources accorded to achieving foreign and defense goals. In his article, ''Raise the Anchor or Lower the Ship, Defense Budgeting and Planning,'' published in the Fall of 1998 edition of The National Interest, Dr. Schlesinger articulates the dilemma with which we find ourselves in recouping the peace dividend in an unstable world that demands U.S. presence and leadership.

Dr. Schlesinger is far too modest to observe that his insights were part of the foundation that led to the increase in military funding that occurs in legislation to be adopted by Congress this week; I encourage each of my colleagues to take a moment to review the article. His forthright, candid discussion of the mismatch between the ends of U.S. foreign and defense policy and the means with which to realize those ends will be a prominent reference for the Senate Armed Services Committee and this body as we deliberate this emergency defense appropriations supplemental and future defense funding issues in the coming congress.

DALE BUMPERS

Mr. DODD. Mr. President, as we approach the end of another Congress, we bid farewell to those Senators who will not be returning in January. Today I wish to say farewell to a good friend and one of the most honorable and respected members of this body—DALE BUMPERS.

DALE BUMPERS is the epitome of what a Senator should be. He entered public service because he believed that it was a noble profession, and throughout his political career he has performed his duties with the highest levels of integrity and decency. He has always been

guided by his heart and his mind, not by any polls.

He almost seems like a character from a Frank Capra film. He was a World War II veteran from a small town who attended college and law school on the G.I. Bill. After practicing law for 20 years in his home town, he earned a reputation as a political giant-killer on his way to the Governor's mansion and eventually the Senate. Even his home address seems straight out of Hollywood. Believe it or not, he actually lives on a street named Honesty Way.

Oftentimes when you're watching DALE BUMPERS speak from the Senate floor, you can't help but think of the character made famous by Jimmy Stewart—Senator Jefferson Smith—whose political philosophy was ''the only causes worth fighting for are lost causes,'' and whose most famous line was, ''Either I'm dead right, or I'm crazy.''

As Senator BUMPERS said just the other day on this floor, he's probably fought more losing battles than any other Senator. I can picture Senator BUMPERS right now, speaking from the heart on some issue about which he cares very deeply. He knows that he's right, but whatever he says, he can't seem to sway a majority of his colleagues. But no matter what, he won't give up. He won't back down. And in 18 years of serving with DALE BUMPERS, I can honestly say that I never saw him waver in his beliefs or back down from a good, honest debate.

Two years ago, when DALE BUMPERS was speaking on the retirement of his former colleague from Arkansas, David Pryor, he said, and I quote, ''I am not a terribly effective legislator because I have a very difficult time compromising. I have strong beliefs, and sometimes compromise is just out of the question for me.''

Maybe there is some truth to that statement. Maybe DALE BUMPERS could have scored a few more political victories if he had been more willing to compromise.

But I think that my friend from Arkansas is being a little hard on himself in his self-assessment. I think that he is an excellent legislator, and it was his candor and his devotion to his convictions that made him effective. Obviously, compromise is often essential to getting things done around here. But equally essential is having people around here who are passionate about issues and willing to fight for their beliefs in the face of opposition.

DALE BUMPERS is not only thought of highly by his colleagues, but I think that everyone in the entire Senate family thinks fondly of this man. And I know for a fact that many members of my staff share a deep admiration for Senator BUMPERS.

The past few weeks, there has actually been a ''Dale Bumpers watch'' in the L.A. room in my office, much like the Mark McGwire watch that captivated the country during the baseball season. Every time Senator BUMPERS has come to the floor, hands have pulled back from keyboards and the volumes on television sets have been turned up, as my staffers have watched and wondered if this would be the last time that DALE BUMPERS will speak on the Senate floor. I only hope that they were watching C–SPAN on the afternoon of Saturday, October 10.

Of course, DALE BUMPERS will most likely be remembered for his unsurpassed oratory skills. One thing that made our friend from Arkansas such an effective speaker was that his positions were always based on common sense. Whether or not you agreed with DALE BUMPERS, you could always understand the logic behind his argument. But what set him apart was his passion. Not many people can get excited over a 120 year-old mining law, but DALE BUMPERS could speak on this issue and convince you that this was the defining issue of the decade.

I only regret that he was never elected Majority Leader so that he may one day come back to speak as a part of the Leaders' Speaker Series. Maybe we can come up with a waiver provision to let certain colleagues who were never Majority Leader speak—and call it the ''Bumpers Rule.''

For DALE BUMPERS the final judgement on the merit of his arguments will not be rendered by the yeas and nays of his colleagues. It will rather be rendered by the illuminating perspective of time. And I have little doubt that time will rule in favor of the Senator from Arkansas.

Just the other day, Senator BUMPERS was on the floor talking about a speech he gave about the ozone layer in the mid 1970s. Most of his statements were considered alarmist at the time, but more than a decade later, an exhaustive study by the National Academy of Sciences confirmed that everything he said has in fact been proven true. And I am confident that time will ultimately prove that DALE BUMPERS was right far more often than he was wrong.

I also think that time will reveal that our friend from Arkansas was one of the most capable, intelligent, and principled legislators that this body has ever known. I can honestly say that it has been an honor to serve alongside DALE BUMPERS for the past 18 years. I will truly miss his friendship, and I wish him and his wife Betty only the best in all their future endeavors.

JOHN GLENN

Mr. DODD. Mr. President, I've been fortunate to be a member of the United States Senate for nearly 18 years, and I have seen a lot of members come and go. But I must admit that I have never seen anyone make a more dramatic exit than our colleague from Ohio. Then again, who in this Chamber would expect anything less?

JOHN GLENN is a man who has served his nation as a Marine fighter pilot in World War II and Korea, flying a total of 149 combat missions.

He has served as a test pilot in the first era of supersonic jets—an occupation where attending a colleague's funeral was as common as a new speed record.

Then of course, JOHN GLENN became a part of our national consciousness when he was chosen to be one of the seven Mercury Astronauts. As much as any event since World War II, his historic flight aboard *Friendship 7* on February 20, 1962 united this Nation and made us believe that there are no limits on what we as humans and as Americans can accomplish.

For the past 24 years, JOHN GLENN has served the people of Ohio and this country as a United States Senator. He has performed his duties with an uncommon grace and dignity. He is a credit to this institution and I am proud to call him a friend.

And now, on October 29th, in perhaps his last act as a U.S. Senator, JOHN GLENN will return to the heavens aboard the space shuttle *Discovery*, becoming the oldest man to ever travel in outer space.

It is very common in this body to feel emotions of deep admiration and respect for one's colleagues, but JOHN GLENN is the rare Senator who inspires feelings of sheer awe.

I was trying to think of what would be an appropriate way to pay tribute to my friend from Ohio, and to put into perspective how remarkable and inspiring is his impending voyage aboard *Discovery*. And I was reminded of the famous farewell of another American hero to whom Senator GLENN is linked historically.

I'm sure all of my colleagues remember Ted Williams—and those of us from New England remember him quite fondly. The Boston Red Sox left-fielder is considered by many to be the greatest hitter who ever lived. The last man to ever hit .400 and the winner of two Triple Crowns, Ted Williams' ability to hit for both power and average has never been matched.

One fact most people don't know about Ted Williams is that he served in the same squadron with JOHN GLENN during the Korean War. Our friend from Ohio was the squadron commander, and the Mr. Williams was his wing-man. People talk about Ruth and Gehrig as the best one-two punch in history, but JOHN GLENN and Ted Williams isn't half bad.

As the story is told, when Ted Williams went to Korea, he knew he would be going into combat. Therefore, he was going to pick the best person to fly alongside him. He had been told that JOHN GLENN was one of the best test pilots in the world, so he sought out our colleague in the reception center before shipping out. And while Ted Williams sought out JOHN GLENN, in tapping Ted Williams to be his wing-man, JOHN GLENN was saying that Williams was the best and sharpest pilot he had in his squadron.

Ted Williams had many great moments on the baseball diamond, but no moment more perfectly encapsulates his career than his last major league at-bat on September 28, 1960. And as JOHN GLENN prepares for his *Discovery* mission, I cannot help but be reminded of that crisp autumn afternoon at Fenway Park.

The game was meaningless in the standings, with the Red Sox limping to the end of their worst season in 27 years. But the day was significant for it was the last time that Hub fans would ever get a glimpse of Number Nine's classic swing. After going 0 for 2 with two fly outs and a walk, Ted Williams came to the plate in the bottom of the eighth inning for what was sure to be his last at-bat. Writer John Updike was at the game, and his accounts of that day are considered scripture by baseball fans everywhere.

As Updike wrote: ''Understand that we were a crowd of rational people. We knew that a home run cannot be produced at will; the right pitch must be perfectly met and luck must ride with the ball. Three innings before, we had seen a brave effort fail. The air was soggy, the season was exhausted. Nevertheless, there will always lurk, around the corner in a pocket of our knowledge of the odds, an indefensible hope, and this was one of the times, which you now and then find in sports, when a density of expectation hangs in the air and plucks an event out of the future.''

As many of my colleagues already know, Ted Williams did not disappoint. In his final swing, he hit a one-one pitch that soared majestically through the air before disappearing into the right-field bullpen.

As John Updike wrote, ''Ted Williams' last word had been so exquisitely chosen, such a perfect fusion of expectation, intention, and execution.'' Well, I feel that Senator JOHN GLENN's final word has been just as exquisitely chosen.

Here is a man whose career of service to this country is unparalleled. Taken separately, his service as a Marine pilot, as an astronaut, and as a Senator are extraordinary. Put together, they are mythic.

Thirty-six years ago, JOHN GLENN convinced a nation that there are no limits to human potential. At the end of this month, he will once more extend the envelope of human accomplishment. JOHN GLENN's mission on the *Discovery* is his home run in his last at bat. I only wish that they could find a seat on the *Discovery* for John Updike.

Ted Williams' last home run reminds me of JOHN GLENN, not simply because it shows that both men know how to go out in style. It does so because the emotions that were stirred in this fabled at-bat are the very same emotions that have made JOHN GLENN an American hero.

It is that feeling of indefensible hope, our desire to believe in something that is bigger than ourselves. Simply put, it is our belief in heroes.

Life will always be full of disappointment and tribulations. But it helps us to conquer the everyday battles in our own lives when we see someone whom we admire accomplish great things. And we cheer for those persons, because in them, we see the best in ourselves. By believing in them, we believe in ourselves.

When you read John Updike's description of the mood in Fenway Park before that last at bat, it could just as easily be a description of the mood in the Grandstands watching Senator GLENN's launch from Cape Canaveral later this month, or in every American living room when JOHN GLENN boarded *Friendship 7* thirty-six years ago.

Reason insists that we be practical. That we accept our limitations. Yet we hold out hope that we can achieve things once unimaginable, that we can do better. And JOHN GLENN has shown us time and again, as an astronaut, as a test pilot, as a Marine, and as a Senator that we can do better.

Surprisingly, the fact that JOHN GLENN and Ted Williams served together in Korea remained largely a secret until 10 years ago, when Senator GLENN appeared at a reception to honor Ted Williams on his 70th birthday. At the end of the evening, Ted Williams, a man not known for lavishing praise on others, spoke about his former commander. He said, and I quote: ''I was so happy and proud of the fact that I knew him. JOHN GLENN is an extraordinarily talented, brave hero. He's a hell of a man. It's just too bad that he's a Democrat.''

When Ted Williams is singing your praises, you must be doing something right, and aside from his comments about Senator GLENN's politics, I couldn't agree more with Mr. Williams' statement.

What we seem to forget about Senator GLENN's departure is that, while he is going into space at the end of the month, he is also coming back. I understand that he plans to set up an institute at Ohio State to encourage young people to become involved in politics and public service. In today's climate, it may be harder to turn young people on to politics than it was to put a man into orbit in 1962. But as a public servant, I cannot imagine a better advocate for the profession of public service than JOHN GLENN. He reminds all of us, young and old, that there is honor in service to others and to your country.

While I am certain that he will keep busy, I hope that he and Annie will have a chance to relax and enjoy his retirement. They have certainly earned it.

So as I bid my friend farewell and good luck in his future years, and in particular his mission, I will repeat those words made famous by Scott Carpenter 37 years ago: ''Godspeed, JOHN GLENN.''

ENCRYPTION CHALLENGE IN THE NEXT CONGRESS

Mr. ASHCROFT. Mr. President, we have made some important advances on the encryption issue during this Congress. We held a hearing in the Senate Constitution Subcommittee, which pointed out the constitutional problems with the Administration's proposed domestic encryption policy and put individual privacy rights back into the discussion. More recently, as everyone is aware, the Administration has taken a few modest steps toward liberalizing its export policy.

However, we have to be wary of piecemeal approaches to the problem. The Administration's decision to relax its export policy helps out big businesses with subsidiaries in certain selected countries, but it leaves most ordinary consumers out in the cold.

In the Judiciary Committee, I resisted another piecemeal approach—making the use of encryption in furtherance of a felony a separate crime, without addressing the broader encryption issue. As a former Attorney General of Missouri, I am keenly aware of the interests of law enforcement in not having encryption unduly hinder law enforcement. On the other hand, in my work on the encryption issue, I have come to appreciate the concerns of privacy groups who are opposed to this proposal. I explored some ways of working this issue out with my colleagues in this Congress, but we could not work out an acceptable compromise. In the next Congress, I look forward to working with my colleagues—on and off the Judiciary Committee—to fashion a comprehensive resolution of the encryption issues that balances the needs of law enforcement and law-abiding citizens.

In the next Congress, our goal must be to move beyond such piecemeal approaches to find a comprehensive solution to computer privacy issues. This will not be easy.

Twice recently, President Clinton has told high-tech audiences that ''we've reached broad agreement on encryption policy.'' Unfortunately, that is just not true—at least not yet. The Administration's water torture approach to encryption—liberalizing export policy drip by drip—demonstrates that they do not understand two fundamental principles: (1) that robust and reliable encryption is available on the world market, and (2) that ordinary Americans should have access to the best available encryption to protect their privacy.

In short, it does us no good to talk about ''broad agreement'' that does not actually exist. Instead, we need to work hard to make such broad agreement a reality. That is the task for the next Congress, and I look forward to working with my colleagues to get the job done.

SENATOR WENDELL FORD

Mr. LEAHY. Mr. President, I would like to take a moment to bid a fond

farewell to one of our most senior senators, Senator WENDELL FORD, who, despite my objections, is leaving the Senate this year. I think that all members will agree that his departure will be a loss for the Senate and nation, as we are losing one of our most respected and well-liked Senators.

Senator FORD and I began our careers in the United States Senate together—24 years ago. It seeks like just yesterday we were the new kids on the block, trying to get the hang of the Senate. A lot has changed from those early days, as Senator FORD has proudly served the people of Kentucky while serving on the Committees on Rules and Administration (where he is ranking member), Commerce, Science, and Transportation, Energy and Natural Resources, and the Joint Committee on Printing (where he was formerly Chairman).

Hailing from Thurston, Kentucky, Senator FORD has brought to the Senate a long and distinguished career as well as the down-home common sense for which he is known. A graduate of the University of Kentucky, WENDELL went on to serve in the United States Army in 1944–1946 and in the Kentucky Army National Guard for 13 years. Senator FORD has long been associated with public service, as he served as a Kentucky state senator, lieutenant governor and as Kentucky's 49th Governor.

Senator FORD has come a long way from being a new kid on the U.S. Senate block in 1974 to becoming the longest serving Senator from Kentucky today. And, I might add, he is now one of the most senior members of the entire Senate and one who follows the old traditions of the Senate as one who always keeps his word.

Throughout his tenure in the U.S. Senate, WENDELL has been recognized as a national leader in campaign-finance reform, energy issues, and, of course, looking out for our nation's tobacco farmers. That has never been as much as an issue as it has this past year, with Congress' attempts at passing tobacco legislation.

A friend to the environment, Senator FORD was the first to introduce and pass a program instructing the federal government to be a model for the country and use recycled printed paper. This program is now the rule rather than the exception in the federal government, as well as schools and businesses throughout the United States.

It is with much regret that I say goodbye to Senator FORD. He has been a great friend all of these years in the Senate, and I will miss him greatly. I hope that retirement brings him plenty of time to spend with his wife, Jean, and their five grandchildren. Knowing WENDELL, however, I have no doubt that retirement will be neither quiet nor slow him down.

SENATOR DALE BUMPERS

Mr. LEAHY. Mr. President, I know we are all going to greatly miss our friend Senator BUMPERS. He is certainly one of the finest orators this body has enjoyed since Daniel Webster. But I want to take a moment to personally thank Senator BUMPERS.

Senator BUMPERS and I came to the Senate as part of the class of 1974. So I had very mixed feelings last year when I heard that my good friend would be leaving this Chamber. He and I have shared many battles over the twenty-four years that we have spent in these halls and on this floor. And, as my good friend pointed out just a few days ago, I am not even half as entertaining as him, so his shoes will be hard to fill.

However, as Senator BUMPERS has often remarked, he has probably fought more losing battles in this Chamber than any other Member. He is leaving those battles for the rest of us to fight. He has laid down a marker for where our country must go in the next century. His challenge to us who remain in this Chamber is to frame laws that show respect to our country's founders and to our country's future.

He has fought tirelessly to defend our Bill of Rights and only yesterday warned this Chamber against of the temptation of amending what he has often called ''our sacred document.'' Senator BUMPERS has shown great courage over the years in his steadfast protection of our Constitution.

As he has pointed out many times, he has taken a lot of political heat for voting against popular issues like school prayer, flag burning and the balanced budget amendment. But even though he has voted against all of these things and voted for our Constitution, he is walking out of this Chamber by his own choice. His courage should guide us all in our choices between Popular issues of the day and protecting our Constitution.

His legacy will also be marked by an intense desire to pass on to his grandchildren and to all of our grandchildren a world where you can still find places of solitude and beauty, streams where you can still catch trout and salmon and forests where you can still find trees older than your grandparents.

That is why it is only fitting that in the last few days of this Congress we are able to honor Senator BUMPERS by dedicating wilderness areas within the Ozark and Ouachita National Forests to his long, and often lonely, fight to protect our nation's most precious natural resources.

His marker also represents a world where children are free from disease and free from debt. DALE and his wife Betty have not only made a professional commitment to protecting the health of our children, but they have made this a personal commitment.

Even if DALE was still a Main Street merchant or a jackleg merchant, as he described himself, Betty would still be dragging him into these fights to protect our children's health. Although I know that she has never had to pull very hard, because his commitment comes from the heart.

Many of us will remember the Senator BUMPERS not only for a keeper of our national treasures, but also as a chaser of boondoggles. Whether it be reining in government subsidies for mining companies or chemical companies, he is never one to pull punches or mince words.

In fact, one of the only reasons I can come up with for Congress still not passing mining reform is that we all so love to see DALE take over the aisles of this Chamber and entertain us with his now re-known ''Bumperisms.'' Who else would think to compare the attraction between our mining companies and government subsidies to a ''duck on a June bug.''

Of course, DALE certainly would not be one to limit his battles to planet Earth. He has also taken on the black holes we've tried build in outer space. I will not be surprised at all if we start receiving Bumper-Grams from Arkansas each week telling us how many millions we have spent in the last seven days on the International Space Station. Although this fight is not over, Senator BUMPERS can leave here knowing he helped stop the ill-conceived ''Star Wars'' to make our heavens a battlefield.

Although we will certainly miss Senator BUMPERS for all his one-liners, impassioned speeches, and frank critiques, we will also miss his wonderful wife, Betty. As we leave here this week, I will look fondly on Senator BUMPERS future—spending his days with Betty, his three children, Brent, Bill, and Brooke and their five grandchildren.

Finally, Mr. President, let me help send our dear friend by quoting from another highly-esteemed Arkansan, Johnny Cash, ''ask that engineer if he will blow his whistle please, 'Cause I smell frost on cotton leaves. . . . And I smell that Southern breeze. Hey, Porter! Hey, Porter! Please get my bags for me, I need nobody to tell me now that we're in Tennessee. . . . Hey Porter! Hey Porter! Please open up my door. When they stop this train I'm gonna get off first 'Cause I can't wait no more. Tell that engineer I say, ''Thanks a lot. I didn't mind the fare. I'm gonna set my feet on Southern soil. . . . And breathe that Southern air.''

We all hope that Southern air treats you and Betty well.

PASSAGE OF CERTAIN ANTI-CRIME LEGISLATION

Mr. LEAHY. Mr. President, as this Congress draws to a close, much has been and will be said about what has and has not been accomplished. There is no getting away from the fact that Congress has dropped the ball on too many issues of vital importance to the American people. I need only mention campaign finance reform, a patients' bill of rights, and the failure to pass tough legislation on youth smoking. I have spoken often about the failure of

this Congress to live up to its constitutional advice and consent responsibilities with respect to nominations. In addition, this is the first year since enactment of the Congressional Budget Act that Congress has failed to pass a budget. There is much about the record of the 105th Congress with which I have been disappointed and with which the American people should find fault.

In the area of criminal justice, I particularly regret Congress' failure to pass balanced juvenile crime legislation, the Democratic crime bills, S. 15 and S. 2484, or comprehensive legislation on behalf of crime victims. At the same time, I would like to highlight those important measures that we have been able to pass.

THE BULLETPROOF VESTS PARTNERSHIP GRANT ACT, THE CARE FOR POLICE SURVIVORS ACT AND THE PUBLIC SAFETY OFFICER EDUCATIONAL ASSISTANCE ACT

These three bills, which I cosponsored, became law this year. Together these measures make a significant package of legislation to benefit the families of those who serve in law enforcement. This past May, I had the privilege of speaking during National Police Week and the annual memorial activities for law enforcement officers and called for Congress to pass this legislation.

We were able to complete action earlier this year on the Bulletproof Vest Partnership Grant Act, which I introduced with Senator HATCH and Senator CAMPBELL last January. Our bipartisan legislation is intended to save the lives of law enforcement officers across the country by helping State and local law enforcement agencies provide their officers with body armor.

Congress should do all that it can to protect our law enforcement officers. Far too many police officers are needlessly killed each year while serving to protect our citizens. According to the Federal Bureau of Investigation, more than 40 percent of the 1,182 officers killed by a firearm in the line of duty since 1980 could have been saved if they had been wearing body armor. Indeed, the FBI estimates that the risk of fatality to officers while not wearing body armor is 14 times higher than for officers wearing it.

Unfortunately, far too many state and local law enforcement agencies cannot afford to provide every officer in their jurisdictions with the protection of body armor. In fact, the Department of Justice estimates that approximately 150,000 State and local law enforcement officers, nearly 25 percent, are not issued body armor.

A recent incident along the Vermont and New Hampshire border underscores the need for the quick passage of this legislation to provide maximum protection to those who protect us. On August 19, 1997, Federal, State and local law enforcement authorities in Vermont and New Hampshire had cornered Carl Drega, after hours of hot pursuit. This madman had just shot to death two New Hampshire state troopers and two other victims earlier in the day. In a massive exchange of gunfire with the authorities, Drega lost his life.

During that shootout, all Federal law enforcement officers wore bulletproof vests, while some state and local officers did not. For example, Federal Border Patrol Officer John Pfeifer, a Vermonter, was seriously wounded in the incident. If it was not for his bulletproof vest, I would have been attending Officer Pfeifer's wake instead of visiting him, and meeting his wife and young daughter in the hospital a few days later.

The two New Hampshire state troopers who were killed by Carl Drega were not so lucky. They were not wearing bulletproof vests. Protective vests might not have been able to save the lives of those courageous officers because of the high-powered assault weapons used by this madman. But the tragedy underscores the point that all of our law enforcement officers, whether Federal, state or local, deserve the protection of a bulletproof vest.

I am relieved that Officer John Pfeifer is doing well and is back on duty. We all grieve for the two New Hampshire officers who were killed. With that and lesser-known incidents as constant reminders, I will continue to do all I can to help prevent loss of life among our law enforcement officers.

The Bulletproof Vest Partnership Grant Act creates a new partnership between the Federal Government and State and local law enforcement agencies to help save the lives of police officers by providing the resources for each and every law enforcement officer to have a bulletproof vest. Our bipartisan law created a $25 million matching grant program within the Department of Justice dedicated to helping State and local law enforcement agencies purchase body armor. I am proud to have been able to work with the Appropriations Committees to fund these grants this coming year.

I was also glad that Congress passed the Care for Police Survivors Act, a measure I cosponsored with Senators HATCH. This bill authorizes additional counseling services under the Public Safety Officers Benefits program for families of law enforcement officers harmed in the line of duty.

I am proud to have cosponsored the Federal Law Enforcement Dependents Assistance Act of 1996 and the extension of those educational benefits to the families of State and local public safety officials who die or are disabled in the line of duty with passage of the Public Safety Officers Educational Benefits Assistance Act this year. I would have preferred to send the President the original text of our legislation since it provided full assistance to these families, but the House of Representatives decided to impose a sliding scale means test to our bill. I am glad that we were finally able to pass some educational benefits this year.

CRIME VICTIMS WITH DISABILITIES AWARENESS ACT

I was delighted to join with Senator DEWINE during National Crime Victims Rights Week in April to introduce S. 1976, The Crime Victims with Disabilities Awareness Act. I welcomed the positive response and broad support that our bill received, including the active support of more than 50 groups, including the National Association of Developmental Disabilities Councils, the National Alliance for the Mentally Ill, the National Association of State Directors of Special Education, the National Center for Hearing Disabilities, the American Association on Health and Disability, and many others.

This Act, which was finally approved by the House in September, directs the Department of Justice to conduct research that will increase public awareness of the victimization of individuals with developmental disabilities and understanding of the nature and extent of such crimes. In addition, the Department must examine the means by which States may establish and maintain a database on the incidence of crime against individuals with disabilities.

The need for this research is abundantly clear. Studies conducted abroad have found that individuals with disabilities are four to 10 times more likely to be a victim than individuals without disabilities. One Canadian study found that 67 percent of women with disabilities were physically or sexually assaulted as children.

My own involvement with crime victims rights began more than three decades ago when I served as State's Attorney for Chittenden County, Vermont, and witnessed first-hand the devastation of crime. I have worked ever since to ensure that the criminal justice system is one that respects the rights and dignity of victims of crime and domestic violence, rather than presents additional ordeals for those already victimized. This bill deals with a group of victims that we should not ignore.

Over the last 20 years we have made strides in recognizing crime victims' rights and providing much needed assistance. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, and the Victims' Rights and Restitution Act of 1990, the Violent Crime Control Act of 1994, the Victims of Terrorism Act of 1996, and the Victim Rights Clarification Act of 1997. This bill is another step to assure recognition of the rights of, and assistance for, victims of crime.

We could have done more. I regret that we were unable to achieve passage of the Crime Victims Assistance Act, S.1081, which I introduced last July with Senator KENNEDY. This bill would provide crime victims with a comprehensive Bill of Rights: an enhanced right to be heard on the issue of pretrial detention and plea bargains, an enhanced right to a speedy trial and to

be present in the courtroom throughout a trial, an enhanced right to be heard on probation revocation and to give a statement at sentencing, and the right to be notified of a defendant's escape or release from prison. The Crime Victims Assistance Act would also strengthen victims' services by increasing Federal victim assistance personnel, enhancing training for State and local law enforcement and Officers of the Court, and establishing an ombudsman program for crime victims.

IDENTIFICATION THEFT AND ASSUMPTION DETERRENCE ACT

I am pleased that we passed the Identity Theft and Assumption Deterrence Act, in the form I developed with Senator KYL as the Kyl-Leahy substitute to S.512. This bill penalizes the theft of personal identification information that results in harm to the person whose identification is stolen and then used for false credit cards, fraudulent loans or for other illegal purposes. It also sets up a ''clearinghouse'' at the Federal Trade Commission to keep track of consumer complaints of identity theft and provide information to victims of this crime on how to deal with its aftermath.

Protecting the privacy of our personal information is a challenge, especially in this information age. Every time we obtain or use a credit card, place a toll-free phone call, surf the Internet, get a driver's license or are featured in Who's Who, we are leaving virtual pieces of ourselves in the form of personal information, which can be used without our consent or even our knowledge. Too frequently, criminals are getting hold of this information and using the personal information of innocent individuals to carry out other crimes. Indeed, U.S. News & World Report has called identity theft ''a crime of the 90's''.

The consequences for the victims of identity theft can be severe. They can have their credit ratings ruined and be unable to get credit cards, student loans, or mortgages. They can be hounded by creditors or collection agencies to repay debts they never incurred, but were obtained in their name, at their address, with their social security number or driver's license number. It can take months or even years, and agonizing effort, to clear their good names and correct their credit histories. I understand that, in some instances, victims of identity theft have even been arrested for crimes they never committed when the actual perpetrators provided law enforcement officials with assumed names.

Just last week, a woman accused of stealing the identity of a Burlington, Vermont woman was arrested in another Vermont town. Apparently, she used her victim's birth certificate and marriage license to access money in her victim's bank accounts. Now, her victim is left trying to clear their credit records.

Our legislation provides important remedies for such victims of identity theft. Specifically, it makes clear that these victims are entitled to restitution, including payment for any costs and attorney's fees in clearing up their credit histories and having to engage in any civil or administrative proceedings to satisfy debts, liens or other obligations resulting from a defendant's theft of their identity. In addition, the bill directs the Federal Trade Commission to keep track of consumer complaints of identity theft and provide information to victims of this crime on how to deal with its aftermath.

This is an important bill on an issue that has caused harm to many Americans. I am glad that Senator KYL and I were able to join forces to craft legislation that both punishes the perpetrators of identity theft and helps the victims of this crime.

Finally, an amendment added in the House, at the joint request of Senator HATCH and myself, gives the United States Judicial Conference limited authority to withhold personal and sensitive information about judicial officers and employees whose lives have been threatened. Apparently, sophisticated criminals are able to use information set forth in publicly available financial disclosure forms to collect more detailed personal information then used in carrying out threats against our judicial officers. This amendment is an important step to protect the lives of judges, and I am glad that we were able to accomplish this.

THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

We were also able to pass a bill, H.R. 3494, to help protect children from sexual predators. Senator HATCH, Senator DEWINE and I joined together to bring forward a bill that was both strong and sensible. The goal of H.R. 3494, and of the Hatch-Leahy-DeWine substitute, which passed both houses of Congress, is to provide stronger protections for children from those who would prey upon them. Concerns over protecting our children have only intensified in recent years with the growing popularity of the Internet and the World Wide Web. Cyberspace gives users access to a wealth of information; it connects people from around the world. But it also creates new opportunities for sexual predators and child pornographers to ply their trade.

The challenge is to protect children from exploitation in cyberspace while ensuring that the vast democratic forum of the Internet remains an engine for the free exchange of ideas and information. The Hatch-Leahy-DeWine version of the bill meets this challenge. While no bill is a cure-all for the scourge of child pornography, our substitute is a useful step toward limiting the ability of cyber-pornographers and predators from harming children.

THE CRIME IDENTIFICATION TECHNOLOGY ACT

Senator DEWINE and I again joined forces to introduce the ''Crime Identification Technology Act,'' which was signed by the President on October 9, 1998. Our legislation authorizes comprehensive Department of Justice grants to every State for criminal justice identification, information and communications technologies and systems.

I know from my experience in law enforcement in Vermont over the last 30 years that access to quality, accurate information in a timely fashion is of vital importance. As we prepare to enter the 21st Century, we must provide our State and local law enforcement officers with the resources to develop the latest technological tools and communications systems to solve and prevent crime. I believe this bill accomplishes that goal.

The Crime Identification Technology Act authorizes $250 million for each of the next five years in grants to States for crime information and identification systems. The Attorney General is directed to make grants to each State to be used in conjunction with units of local government, and other States, to use information and identification technologies and systems to upgrade criminal history and criminal justice record systems.

Grants made under our legislation may include programs to establish, develop, update or upgrade—

State, centralized, automated criminal history record information systems, including arrest and disposition reporting;

Automated fingerprint identification systems that are compatible with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

Finger imaging, live scan and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with systems operated by states and the Federal Bureau of Investigation;

Systems to facilitate full participation in the Interstate Identification Index (III);

Programs and systems to facilitate full participation in the Interstate Identification Index National Crime Prevention and Privacy Compact;

Systems to facilitate full participation in the National Instant Criminal Background Check System (NICS) for firearms eligibility determinations;

Integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement, courts, prosecution, and corrections;

Non-criminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the NICS;

Court-based criminal justice information systems to promote reporting of dispositions to central state repositories and to the FBI and to promote the compatibility with, and integration of, court systems with other criminal justice information systems;

Ballistics identification programs that are compatible and integrated with the ballistics programs of the National Integrated Ballistics Network (NIBN);

Information, identification and communications programs for forensic purposes;

DNA programs for forensic and identification purposes;

Sexual offender identification and registration systems;

Domestic violence offender identification and information systems;

Programs for fingerprint-supported background checks for non-criminal justice purposes including youth service employees and volunteers and other individuals in positions of trust, if authorized by Federal or State law and administered by a government agency;

Criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems and uniform crime reports;

Online and other state-of-the-art communications technologies and programs; and

Multi-agency, multi-jurisdictional communications systems to share routine and emergency information among Federal, State and local law enforcement agencies.

The future effectiveness of law enforcement depends on all levels of law enforcement agencies working together and harnessing the power of today's information age to prevent crime and catch criminals. One way to work together is for State and local law enforcement agencies to band together to create efficiencies of scale. For example, together with New Hampshire and Maine, the State of Vermont has pooled its resources to build a tri-state IAFIS system to identify fingerprints. Our bipartisan legislation would foster these partnerships by allowing groups of States to apply together for grants.

Another challenge for law enforcement agencies across the country is communication difficulties between Federal, State and local law enforcement officials. In a recent report, the Department of Justice's National Institute of Justice concluded that law enforcement agencies throughout the nation lack adequate communications systems to respond to crimes that cross State and local jurisdictions.

A 1997 incident along the Vermont and New Hampshire border underscored this problem. During a cross border shooting spree that left four people dead including two New Hampshire State troopers, Vermont and New Hampshire officers were forced to park two police cruisers next to one another to coordinate activities between Federal, State and local law enforcement officers because the two States' police radios could not communicate with one another.

The Vermont Department of Public Safety, the Vermont U.S. Attorney's Office and others have reacted to these communication problems by developing the Northern Lights proposal. This project will allow the northern borders States of Vermont, New York, New Hampshire and Maine to integrate their law enforcement communications systems to better coordinate interdiction efforts and share intelligence data seamlessly. Our legislation would provide grants for the development of integrated Federal, State and local law enforcement communications systems to foster cutting edge efforts like the Northern Lights project.

In addition, our bipartisan legislation will help each of our States meet its obligations under national anti-crime initiatives. For instance, the FBI will soon bring online NCIC 2000 and IAFIS which will require states to update their criminal justice systems for the country to benefit. States are also being asked to participate in several other national programs such as sexual offender registries, national domestic violence legislation, Brady Act, and National Child Protection Act. Currently, there are no comprehensive programs to support these national crime-fighting systems. Our legislation will fill this void by helping each State meet its obligations under these Federal laws.

The Crime Identification Technology Act provides a helping hand without the heavy hand of a top-down, Washington-knows-best approach. Unfortunately, some in Congress have pushed legislation mandating minute detail changes that States must make in their laws to qualify for Federal funds. Our bill rejects this approach. Instead, we provide the States with Federal support to improve their criminal justice identification, information and communication systems without prescribing new Federal mandates.

INTERSTATE IDENTIFICATION INDEX (III) COMPACT

I am also pleased that Congress finally passed the ''National Crime Prevention and Privacy Compact,'' or Federal-State Interstate Identification Index ''III'') Compact, for exchange of criminal history records for noncriminal justice purposes. This Compact is the product of a decade-long effort by Federal and State law enforcement officials to establish a legal framework for the exchange of criminal history records for authorized noncriminal justice purposes, such as security clearances, employment or licensing background checks.

Since 1924, the FBI has collected and maintained duplicate State and local fingerprint cards, along with arrest and disposition records. Today, the FBI has more than 200 million fingerprint cards in its system. These FBI records are accessible to authorized government entities for both criminal and authorized noncriminal justice purposes.

Maintaining duplicate files at the FBI is costly and leads to inaccuracies in the criminal history records, since follow-up disposition information from the States is often incomplete. Such a huge central database of routinely incomplete criminal history records raises significant privacy concerns. In addition, the FBI releases these records for noncriminal justice purposes (as authorized by Federal law), to State agencies upon request, even if the State from which the records originated or the receiving State more narrowly restricts the dissemination of such records for noncriminal justice purposes.

The Compact is an effort to get the FBI out of the business of holding a duplicate copy of every State and local criminal history record, and instead to keep those records at the State level. Once fully implemented, the FBI will only need to hold the Interstate Identification Index (III), consisting of the national fingerprint file and a pointer index to direct the requestor to the correct State records repository. The Compact would eliminate the necessity for duplicate records at the FBI for those States participating in the Compact.

Eventually, when all the States become full participants in the Compact, the FBI's centralized files of state offender records will be discontinued and users of such records will obtain those records from the appropriate State's central repository (or from the FBI if the offender has a Federal record). The Compact would establish both a framework for this cooperative exchange of criminal history records for noncriminal justice purposes, and create a Compact Council with representatives from the FBI and the States to monitor system operations and issue necessary rules and procedures for the integrity and accuracy of the records and compliance with privacy standards. Importantly, this Compact would not in any way expand or diminish noncriminal justice purposes for which criminal history records may be used under existing State or Federal law.

Overall, I believe that the Compact should increase the accuracy, completeness and privacy protection for criminal history records. In addition, the Compact would result in important cost savings from establishing a decentralized system. Under the system envisioned by the Compact, the FBI would hold only an ''index and pointer'' to the records maintained at the originating State. The FBI would no longer have to maintain duplicate State records. Moreover, States would no longer have the burden and costs of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests. Instead, the State would only have to submit to the FBI the fingerprints and textual identification data for a person's first arrest.

With this system, criminal history records would be more up-to-date, or complete, because a decentralized system will keep the records closer to their point of origin in State repositories, eliminating the need for the States to keep sending updated disposition information to the FBI. To ensure further accuracy, the Compact would require requests for criminal history checks for noncriminal justice purposes to be submitted with fingerprints or some other form of positive identification, to avoid mistaken release of records.

Furthermore, under the Compact, the newly-created Council must establish procedures to require that the most current records are requested and that when a new need arises, a new record check is conducted.

Significantly, the newly-created Council must establish privacy enhancing procedures to ensure that requested criminal history records are only used by authorized officials for authorized purposes. Furthermore, the Compact makes clear that only the FBI and authorized representatives from the State repository may have direct access to the FBI index.

The Council must also ensure that only legally appropriate information is released and, specifically, that record entries that may not be used for noncriminal justice purposes are deleted from the response.

Thus, while the Compact would require the release of arrest records to a requesting State, the Compact would also ensure that if disposition records are available that the complete record be released. Also, the Compact would require States receiving records under the Compact to ensure that the records are disseminated in compliance with the authorized uses in that State. Consequently, under the Compact, a State that receives arrest-only information would have to give effect to disposition-only policies in that State and not release that information for noncriminal justice purposes. Thus, in my view, the impact of the Compact for the privacy and accuracy of the records would be positive.

I am pleased to have joined with Senators HATCH and DEWINE to make a number of refinements to the Compact as transmitted by to us by the Administration. Specifically, we have worked to clarify that (1) the work of the Council includes establishing standards to protect the privacy of the records; (2) sealed criminal history records are not covered or subject to release for noncriminal justice purposes under the Compact; (3) the meetings of the Council are open to the public, and (4) the Council's decisions, rules and procedures are available for public inspection and copying and published in the Federal Register.

Commissioner Walton of the Vermont Department of Public Safety supports this Compact. He hopes that passage of the Compact will encourage Vermont to become a full participant in III for both criminal and noncriminal justice purposes, so that Vermont can ''reap the benefits of cost savings and improved data quality.'' The Compact is also strongly supported by the FBI and SEARCH.

We all have an interest in making sure that the criminal history records maintained by our law enforcement agencies at the local, State and Federal levels, are complete, accurate and accessible only to authorized personnel for legally authorized purposes. This Compact is a significant step in the process of achieving that goal.

I know that the Justice Department, under Attorney General Reno's leadership, has made it a priority to modernize and automate criminal history records. Our legislation will continue that leadership by providing each State with the necessary resources to continue to make important efforts to bring their criminal justice systems up to date.

SCHOOL RESOURCE OFFICERS

Congress also recently passed a provision originally introduced by Representative Mahoney of Connecticut and which we later included in S. 2484, the Safe Schools, Safe Streets, and Secure Borders Act of 1998, a comprehensive anti-crime bill cosponsored by Senators DASCHLE, BIDEN, MOSELEY-BRAUN, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, REID, BINGAMAN, DORGAN, MURRAY, DODD and TORRICELLI. This bill authorizes use of COPS funds for school-based partnerships between local schools and local law enforcement, and for School Resource Officers.

These are career police officers with full police authority who are deployed in and around elementary schools, middle schools and high schools to identify and combat school-related crime and disorder problems. The police and the schools work together. They combat gangs and drugs, and perhaps more important, they are there to know and be known by the kids. With their training, the police officers can often spot the initial warning signs so that problems can be stopped before they even start. They can give real-life lessons to likely victims and to kids who are starting down the wrong path. And they can help in developing community justice initiatives and in training students in conflict resolution and other means of preventing crime.

When local communities come up with ideas that work, we in the Congress should assist the rest of the country in putting their own programs in place. The more that we can do to head off crime at an early stage, the more money we will save, and the safer we will make our communities. This is a small but a significant step.

It was not long ago that Republicans fought hard to prevent the COPS program from being adopted and when they tried to keep the President from putting 100,000 additional police officers on the street. It is a real pleasure to see them come around and join with us in expanding what has proved to be a good program that really works.

INTERNATIONAL CRIME AND ANTI-TERRORISM AMENDMENTS

I am pleased that the Senate passed our Improvements to International Crime and Anti-Terrorism Amendments of 1998, and I am hopeful the House will do the same today so that this bill can be signed into law this year. This bill reflects the top international law enforcement priorities of the Departments of Justice, Treasury and State.

Crime and terrorism directed at Americans and American interests abroad are part of our modern reality. The bombings of U.S. embassies in Kenya and Tanzania are just the most recent reminders of how vulnerable American citizens and interests are to terrorist attacks.

Not all of these attacks are with bombs. As a result of improvements in technology, criminals now can transfer funds with a push of a button, or use computers and credit card numbers to steal from American citizens and businesses from any spot on the globe. They can strike at Americans here and abroad. The playing field keeps changing, and we need to change with it. This bill does exactly that by giving our law enforcement agencies new tools to fight international crime and terrorism.

I initially introduced certain provisions of this bill on April 30, 1998, in the ''Money Laundering Enforcement and Combating Drugs in Prisons Act of 1998,'' S. 2011, with Senators DASCHLE, KOHL, FEINSTEIN and CLELAND. Again, on July 14, 1998, I introduced with Senator BIDEN, on behalf of the Administration, the ''International Crime Control Act of 1998,'' S. 2303, which contains many of the provisions set forth in this bill. Virtually all of the provisions in the bill were included in another major Democratic anti-crime bill, the ''Safe Schools, Safe Streets, and Secure Borders Act,'' that I introduced last month.

The International Crime and Anti-Terrorism Amendments bill provides discretionary authority for investigations and prosecutions of organized crime groups that kill or threaten violence against Americans abroad, when in the view of the Attorney General, the organized crime group was trying to further its objectives. This should not be viewed as an invitation for American law enforcement officers to start investigating organized crime around the world, but when such groups are targeting Americans abroad for physical violence and the Attorney General believes it is necessary, we must act.

The bill also expands current law to criminalize murder and other serious crimes committed against state and local officials who are working abroad with Federal authorities on joint projects or operations. The penalties for murder against such state or local officials, who are acting abroad under the auspices of the Federal Government, are the same as for Federal officers, under section 1119 of title 18, United States Code, and would therefore authorize imposition of the death penalty. While I oppose the death penalty, I also oppose arbitrary distinctions in its operation, and there is no principled basis to distinguish between penalties for murder of Federal versus non-Federal officials, who are both acting under the auspices of the Federal Government.

These provisions are crafted to avoid an unwarranted intrusion into foreign affairs. The authority of the Attorney

General to bring these prosecutions is limited so as not to interfere with the criminal jurisdiction of the foreign nation where the murder occurred. Thus, this authority will be exercised only in the rare circumstance in which the Attorney General believes the foreign country is not adequately addressing the crime, and where we must take action.

The bill contains provisions to protect our maritime borders by providing realistic sanctions for vessels that fail to ''heave to'' or otherwise obstruct the Coast Guard. No longer will drug-runners be able to stall or resist Coast Guard commands with impunity. The provision includes additional sanctions for resisting ''heave to'' orders and for lying to law enforcement officers about a boat's destination, origin and other pertinent matters. The Coast Guard tells me this provision will be a tremendous help in protecting our shores from illegal drugs and other contraband.

The bill also makes sure that drug kingpins and terrorists criminals will not be able to come and go as they please and use the United States as a marketplace or recruiting ground. It provides specific authority to exclude from entry into our country international criminals and terrorists, including those engaged in flight to avoid foreign prosecution, alien smuggling, or arms or drug trafficking under specific circumstances. While it would block such criminals, the bill is carefully crafted to ensure that the Attorney General has full authority to make exceptions for humanitarian and similar reasons.

The bill has two important provisions aimed at computer crimes: it provides expanded wiretap authority, subject to court order, to cover computer crimes, and also gives us extraterritorial jurisdiction over access device fraud, such as stealing telephone credit card numbers, where the victim of the fraud is within our borders.

We cannot stop international crime without international cooperation, however. This bill facilitates such cooperation by allowing our country to share the proceeds of joint forfeiture operations, to encourage participation by foreign countries. It streamlines procedures for executing MLAT requests that apply to multiple judicial districts. Furthermore, the bill addresses the essential but often overlooked role of state and local law enforcement in combating international crime, and authorizes reimbursement of state and local authorities for their cooperation in international crime cases. The bill helps our prosecutors in international crime cases by facilitating the admission of foreign records in U.S. courts. Finally, it will speed the wheels of justice by prohibiting international criminals from being credited with any time they serve abroad while they fight extradition to face charges in our country.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. Working together with Senator HATCH, we were able to craft a bipartisan bill that will accomplish what all of us want, to make America a safer and more secure place.

AUTHORIZATION OF THE DEPARTMENT OF JUSTICE AND IMPLEMENTATION OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

I was pleased to work with Senator HATCH on the Hatch-Leahy substitute amendment to H.R. 3303, the Department of Justice Appropriation Authorization Act for fiscal years 1999, 2000, and 2001, that the Senate Judiciary Committee reported favorably and that I had hoped would be enacted before the end of this Congress.

The last time Congress properly authorized spending for the entire Department of Justice was in 1979. This 19-year failure to properly reauthorize the Department has forced the appropriations committees in both houses to do both jobs of reauthorizing and appropriating money for the Department. This bill reaffirms the authorizing jurisdiction and responsibility of the Senate and House Judiciary Committees. I commend Senator HATCH and Congressman HYDE for working in a bipartisan manner to bring the important business of re-authorizing the Department back before the Judiciary Committees. Regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities.

One of the provisions that the Hatch-Leahy substitute removed from the House-passed version of the bill relates to the compliance date and so-called ''grandfather date'' in the Communications Assistance For Law Enforcement Act (CALEA), commonly called the ''digital telephony law.'' As part of H.R. 3303, the House extended the compliance date for two years and the ''grandfather date'' for almost six years, until October 2000.

I have long resisted the efforts and urging of many to tamper with the provisions of CALEA. This law was carefully crafted, after months of negotiation, to balance privacy rights and interests, law enforcement needs, and the desire of business and consumers for innovation in the telecommunications industry. I have so far resisted legislative modifications not because implementation of this law has been problem-free. Far from it. Implementation of this important law has certainly been slower than any of us anticipated. For example, the Department of Justice issued its final notice of capacity in March 1998, over two years late. Capacity requirements are integrally involved with setting appropriate capability standards and building CALEA-compliant equipment. Thus, the delay in release of the final capacity notice has also delayed the ability of telecommunications carriers to achieve compliance with the capability assistance requirements.

In addition to significant delays, implementation of CALEA has been fraught with controversy and debate. Currently pending before the FCC, for example, are proceedings to determine the sufficiency of an interim standard adopted in December 1997 by industry for wireline, cellular and broadband PCS carriers to comply with the four general capability assistance requirements of the law. This interim standard was developed in accordance with CALEA's direction that the telecommunications industry take the lead on figuring out technical solutions for implementing the law. Such industry standards provide ''safe harbors'' under the law.

While the FBI criticizes the interim standard for failing to include certain surveillance functions (referred to as the ''punch list'' items), civil liberties groups criticize the interim standard for failing to protect privacy by including surveillance functions for location information and packet-mode call content information. We recognized in CALEA that these are complicated issues, which require intensive time and technical expertise to resolve. The law consequently authorizes the FCC to review alleged deficiencies in, or establish under certain circumstances, technical requirements or standards for compliance with the CALEA capability assistance requirements.

Uncertainty over the outcome of the disputed interim standard has resulted in further delays in developing technical solutions. Indeed, because of the delays in implementation of CALEA, neither the House or the Senate provided any new direct appropriations into the Telecommunications Carrier Compliance Fund. The Explanation of Managers for the Omnibus Appropriations bill makes clear that should funding be necessary in the upcoming fiscal year, the Attorney General is expected to spend the unobligated funds currently available in the fund.

Even if the FCC were to issue its decision and settle the disputes today, compliance with the interim standard would not be achievable for some time because of the development cycle for standardized products and services after promulgation of standards. Therefore, the conferees for the Omnibus Appropriations bill urged the FCC ''to act quickly to resolve this issue.'' I join in this direction and also urge the FCC to resolve the pending petitions regarding the interim standard promptly.

Should the FCC determine that the FBI is correct and that all, or substantially all, the punch list items are required to be incorporated into the compliance standard, the FBI may have won a battle but in the long run—given the potential costs associated with the punch list items—lost the proverbial war. Carriers would bear the costs of complying with those punch list items for equipment, facilities, and services

deployed or installed after January 1995, unless the cost is so high, compliance is not reasonably achievable. Then the Government would have to pay for retrofitting, subject to available appropriations and prioritization by law enforcement. Absent such Government payment, which would make compliance ''reasonably achievable,'' CALEA directs that the equipment, facilities, and services at issue will be ''deemed to be in compliance with such capability requirements.'' 47 U.S.C. 1008(b)(2)(B).

I therefore strongly urge carriers to provide the FCC with all necessary cost information associated with the punch list items so that the agency is able to make determinations on whether compliance is reasonably achievable.

We anticipated when we passed CALEA that debates and delays over implementation issues would occur. Congress therefore established processes at the FCC and in the courts to hear all sides, resolve differences, and grant extensions where necessary and warranted.

CALEA expressly authorizes the FCC to extend the compliance date of October 1998, one of the dates extended by the House in its version of H.R. 3303. On September 11, 1998, the FCC released a decision exercising its authority and extending the CALEA compliance date until June 30, 2000. This is a few months shy of the extension approved by the House. This action shows that the FCC process we set up in CALEA to resolve problems that may arise with the law's implementation works. The agency's decision on extension of the compliance date has given me renewed confidence in its ability to carry out the responsibilities we gave the agency under CALEA.

The House-passed version of H.R. 3303 also extended the ''grandfather date.'' Let me explain the significance of this date. CALEA authorizes $500 million for the Federal Government to pay telecommunications carriers for the reasonable costs of retrofitting equipment, facilities or services deployed by January 1, 1995 to comply with the capability requirements. Any such equipment not retrofitted at Government expense is deemed to be compliant, or ''grandfathered,'' until the equipment is replaced or undergoes significant upgrade in the ordinary course of business.

Carriers have raised concerns that due to significant changes in the telecommunications infrastructure as well as the deployment of new equipment and services since 1995, they may be ineligible for any reimbursement under this ''grandfather'' clause. Carriers have sought an extension of the ''grandfather date'' until 2000. Before we take such a step and extend the grandfather date, we should fully consider the possible unintended consequences.

The ''grandfather date'' was set at a time earlier than the compliance date in order to give telecommunications carriers every incentive to find and implement the most efficient and cost-effective solutions to ensure the requisite law enforcement access. In addition, Congress fully contemplated that at some point carriers—not the Government—would bear the costs of CALEA compliance. Setting the grandfather date at January 1995 was intended to be a privacy-enhancing mechanism by giving carriers the additional incentive to interpret the capability assistance requirements narrowly since compliance with non-grandfathered equipment or services was on their ''dime.'' Extending the grandfather date by almost six years to the year 200 may have the unintended consequence of undercutting these important policy considerations.

While CALEA requires that equipment, facilities or services deployed after January 1995 comply with capability assistance standards at the carriers' expense, to ensure fairness and promote innovation, the law provides a ''relief valve.'' Specifically, carriers are authorized to petition the FCC to determine whether compliance for such non-grandfathered equipment, facilities or services is ''reasonably achievable'' or whether compliance would impose significant difficulty or expense on the carrier or users of the carrier's systems. As I noted above, if the FCC decides compliance is not reasonably achievable, under 47 U.S.C. 1008(b)(2)B), the carrier is ''deemed to be in compliance'' unless the Attorney General prioritizes its needs, evaluates the importance of the surveillance feature to laws enforcement's mission, and determines that reimbursement is justified.

I appreciate the circumstances under which telecommunications carriers are seeking extension of the grandfather date and their concern over the costs of CALEA compliance for individual companies and ratepayers. As I have already noted, the cost implications of the punch list are significant in evaluating whether compliance is ''reasonably achievable,'' regardless of the specific grandfather date. Should the cost of CALEA compliance and of the punch list become excessive, I urge the industry not to assume that extension of the grandfather date is the only means to achieve a fair resolution of the costs of CALEA compliance.

I look forward to a continued dialogue with the telecommunications industry and the Department of Justice to ensure that the implementation of CALEA is fair and maintains the careful balance of privacy, innovation and law enforcement interests that we intended.

IMPORTANT CRIME ISSUES NOT ADDRESSED

Despite the passage of these important bills, we could have done better. When you look at the Democrat-supported ''Safe Schools, Safe Streets and Secure Borders Act,'' for example, you see too much unfinished work. You see comprehensive reform of the juvenile justice system, including sensible provisions dealing with youth and guns, grants for youth violence courts and other innovative programs for youth. You see comprehensive anti-gang provisions, from stopping the ''franchising'' of youth gang to penalties for witness intimidation and the use of body armor or laser sighting devices by criminals. You see comprehensive assistance to State and local law enforcement, from more cops on the beat to improved funding to stop violence against women to funds and technology for rural areas. You see weapons against the hate crimes that shock the conscience of the Nation, against the growing problem of cargo theft, against violence and intimidation of judges and others in the law enforcement community, against involving minors in illegal drugs. You see tough money laundering provisions that recently were praised by FBI Director Freeh as excellent tools against not only the drug kingpins, but also international terrorists like Usama bin Laden, the man believed to be responsible for the bombings of our embassies in Kenya and Tanzania. You see an arsenal of other weapons against criminals both here and abroad. And lest we lose sight of the victims of crime, you see a Bill of Rights for the victims of crime, backed by the money, personnel and technology necessary to make those rights a reality.

In the end, of the ten titles in the Safe Schools, Safe Streets and Secure Borders Act, which I proposed with a number of other Democrats, Congress managed to adopt only the title on Criminal History Records in its entirety, along with bits and pieces of others. The list of titles not adopted largely defines the work that remains for a more productive Congress. I have put these important provisions squarely on the table and stand ready, as always, to work with Senators on both sides of the aisle to fine-tune them and to do as much as we can for the American people.

CITIZENS PROTECTION ACT

While Congress failed to enact many provisions outlined in the Safe Schools, Safe Streets, and Secure Borders Act that would have done much to assist the work of law enforcement officers, Congress was placing unnecessary and ill-advised obstacles in the path of effective interstate and international prosecutions, just the type of prosecution that is most difficult, most complex, and most important to the safety and welfare of the American people. This unfortunate bill, the Citizens Protection Act, H.R. 3396, was added by the House to the Commerce, Justice, State and the Judiciary appropriations bill, H.R. 4276. Although its most offensive provisions have been trimmed off, a version of this bill, with a delayed effective date, is now in the Omnibus Appropriations measure at the insistence of the House Republican leadership over the protests not only of the Department of Justice, but also the President and senior Members of both parties in the Senate. As the Washington Post noted in an October 18 editorial:

One might expect that criminal justice legislation that is opposed by the president, the attorney general and the chairman and ranking member of the Senate Judiciary Committee would not be blithely slipped into the statute books. But prudence was long ago a casualty of this budget process.

I hope that the next Congress will show more wisdom and turn away from such mischief to serious work on the unfinished work of the Safe Schools, Safe Streets and Secure Borders Act, and other nonpartisan, pro-law enforcement legislation.

The criminal justice legislation that I have summarized represents a number of good, solid measures. Enactment of these provisions will have a real effect on the lives of Americans. Even amid the debris of a Congress that has botched so many opportunities to help the American people, I am glad to have squeezed through these significant criminal justice measures in the logjam of the last weeks of the session. Far more than satisfaction, however, I feel a determination that we in Congress can, should and must do better next time. We owe it to the people who sent us here.

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT

Mr. LEAHY. Mr. President, I am glad that the House of Representatives has, at long last, taken up and passed the Chemical Weapons Convention Implementation Act, S. 610, that the Senate had passed and sent to the House more than a years ago. This measure was included in the omnibus spending bill passed by the House last night and by the Senate today.

Over 10 years ago, in May 1988, as chairman of the then Judiciary Subcommittee on Technology and the Law, I convened hearings on High Tech Terrorism, including terrorism with chemical and biological weapons and terrorist attacks on computer infrastructure. We have made progress in those 10 years, but we need to do more. I was proud to have played a role in Senate ratification of the Chemical Weapons Convention last year. This was a matter initiated under President Reagan, negotiated by President Bush, and signed on behalf of the United States by President Clinton.

We also proceeded to pass implementing legislation, which addressed complex technical and constitutional issues and about which there was great potential for delay. We were able to overcome that delay, however, and reach a sound consensus with admirable speed. The bill was referred to the Judiciary Committee on April 17, 1997, and we held hearings and reported out the bill in just over a month. That bill passed the Senate on May 23, 1997. That shows what we can do here when we put our minds to it.

I am gratified that the stall in House consideration of this important implementing legislation for the Chemical and Biological Weapons Treaty has finally ended. Further delay and a failure to act on the part of the House on what is so obviously a pressing national priority, would have been a great blow to the Nation and to the national security.

TRIBUTE TO KYLE AND ALISON MCSLARROW

Mr. COVERDELL. Mr. President, there is an important part of the legislative process that the public rarely gets a chance to see. I am talking about the many dedicated staff people, on both sides of the aisle, who work tirelessly to help the Senate conduct the Nation's business. They work hard. They are dedicated. They provide invaluble advice and counsel on a daily basis.

Today, I rise to pay tribute to one of these remarkable people. Kyle McSlarrow, my Chief of Staff in the Republican Conference Secretary's office, will be leaving my office to run Vice President Dan Quayle's presidential campaign in Arizona. While I couldn't be happier about Kyle's new opportunity to shape the politics of a presidential campaign, I am sad to lose such a talented individual. But most of all, I am sad that such a good friend will be leaving.

For the last several years, Kyle has been an integral part of the Senate Republican leadership team. He provided his counsel to two Majority Leaders—Senator Dole and Senator LOTT—before coming to work as my Chief of Staff in the Conference Secretary's office. Kyle has helped set the strategy for all the major legislative issues we have brought to the Senate floor. He has provided his insight not only to our leadership, but also to many other Senators in our conference who have come to rely on his good judgement.

Kyle McSlarrow is a conservative with the strongest of convictions. He has always been able to get the job done, while holding steadfast to these principles. Kyle has a great deal to be proud of in the years he has worked on Capitol Hill: helping to rein in the IRS, working to reduce illegal drugs in our communities and helping to craft a blueprint for education reform that will one day be the law of this land. But most importantly, Capitol Hill is where Kyle met his wife Alison.

Kyle's better half, Alison McSlarrow, will be leaving the majority leader's office where she has served with great distinction for the past few years as Deputy Chief of Staff. Alison is one of the brightest staffers I have met in Washington. Her intricate knowledge of Senate parliamentary procedure and legislative issues will be sorely missed. I greatly appreciate all the help she has been to me over the years and will miss her dearly, as well.

So I say to my friends Kyle and Alison, best of luck in Arizona. You have made a difference here. You will make a difference wherever you may be. The Nation needs caring and dedicated people like you to always be involved in the process. God speed. The best for you both is yet to come.

TRIBUTE TO RETIRING CONGRESSMAN DAN SCHAEFER

Mr. CAMPBELL. Mr. President, today I pay tribute to may good friend and colleague from Colorado, Congressman DAN SCHAEFER.

Congressman DAN SCHAEFER is retiring from the House of Representatives after 15 years of service to the people of Colorado's 6th Congressional District and the United States. I would like to take this opportunity to share a few reflections on DAN SCHAEFER's many accomplishments as a Congressman.

Not only did Congressman DAN SCHAEFER ably step into the void left when Congressman Jack Swigert died shortly after being elected, but he also successfully led the charge in Congress to have a statute depicting Jack Swigert as a young and daring astronaut of Apollo XIII fame added to Congress' statuary collection as Colorado's second and final contribution. With its wonderful combination of bronze and a colorful space suit, the statue is both visually striking and proud. The Jack Swigert statue is perhaps one of the most popular in the halls of Congress for visitors from all over the world. I know it is one of mine.

Over the years Congressman DAN SCHAEFER has been a leader in the fight to balance our nation's budget. In fact, DAN SCHAEFER is the one who introduced H.J. Res. 1, a joint resolution calling for an amendment to the Constitution to provide for a balanced budget for the U.S. federal government and for greater accountability in the enactment of tax legislation in the 105th Congress. H.J. Res. 1 clearly merits the cosponsorships of the 229 of his colleagues in the House of Representatives who joined in support of Congressman SCHAEFER's resolution.

I am an original cosponsor of S.J. Res. 1, the companion legislation in the Senate to H.J. Res. 1. While this worthy legislation fell just one vote short of passage in the Senate in the 105th Congress, this Congress also just passed the first balanced budget in many, many years. DAN SCHAEFER is retiring from Congress with its books balanced for the first time in generations. His role in achieving this important historic victory for the American people will be remembered.

Congressman DAN SCHAEFER has also been a national leader in energy issues. In the 105th Congress he led the drive for Public Law 105–28, a law that amends and updates sections of the Department of Energy Organization Act. He has also been a ground breaker in the quest to deregulate American electricity. Even the exceeding complexities and deep vested interests involved in our nation's electricity markets and monopolies did not deter DAN SCHAEFER from introducing H.R. 655. This bill's goal was to give all American

consumers the right to choose among competitive providers of electricity in order to achieve lower prices and better service. His steadfast work on this complex issue has made valuable progress that can be built upon in years to come.

Finally, as the Coach of the Republican Congressional Baseball Team, DAN SCHAEFER has established a winning record, batting 60% as the Republican team has won 3 out of 5 games under his leadership, including winning for the last two years, in 1997 and 1998. DAN has also been selected as the team's Most Valuable Player twice. It is clear that Congressman SCHAEFER's leadership will be missed both in the halls of Congress as well as on the Congressional baseball diamond.

As he retires from the House, Congressman DAN SCHAEFER has a record of accomplishment to be proud of. He is the undisputed Dean of the Colorado delegation. He will be missed. I wish him well and best of luck in all of his future endeavors.

TRIBUTE TO CHRISTOPHER GEORGES

Mr. DASCHLE. Mr. President, I was stunned and saddened to learn this morning of the death of Christopher Georges.

For much of the last four years, Chris reported on Congress for the Wall Street Journal. He died yesterday from complications of lupus.

He was not given much time in this world—only 33 years. But he used every minute he was given, and achieved a remarkable amount.

He graduated magna cum laude from Harvard University in 1987 with a degree in government. At Harvard, he was the executive editor of the Harvard Crimson and was named Harvard Journalist of the Year for 1986–87.

He began his journalism career in 1987 as an intern with the Washington Post. He worked on the issues staff of the Dukakis for President campaign in 1987 and 1988. He returned to newspapers, as a clerk for the New York Times. From the Times, Chris moved to CNN's first special investigative unit.

After CNN, he was named editor of Washington Monthly magazine. A story he wrote on investigative journalism for Washington Monthly was named one of the ''10 Best of 1992'' by the 1993 Forbes Media Guide.

In 1994, he joined the staff of the Wall Street Journal in Washington covering politics, the budget and economic issues. He was nominated for a Pulitzer Prize last year for a series of stories he wrote examining the effects of the new welfare reform laws.

It was during his time at the Journal that I got to know Chris. He was a brilliant and fair reporter. He understood public policy as well as anyone in this building. He also had a rare ability to see how what we do in this building affects people outside it.

His stories on welfare reform were a case in point. For months, Chris practically lived at housing projects in the Washington area to see how the new laws affected four women as they struggled to make the transition from welfare to work.

Chris loved everything about newspapering—the reporting, the storytelling. His abilities, and his fundamental sense of fairness, earned him the respect of people on both sides of the aisle.

Chris was brilliant, funny, modest, gentle. He was also incredibly brave.

Like many of us, I had no idea how sick Chris was, how savage and debilitating his disease was. He almost never spoke about it. I now know that Chris struggled with his disease for more than half his life, since he was 15 years old.

A good friend of Chris's, Gene Sperling, director of the President's National Economic Council, first met Chris when he was 22. He said the first time they stayed up all night working on a project, Chris confided to Gene about his disease.

Gene asked Chris what it meant to have lupus. Chris was quiet for a moment, then he said, ''It means I could die young.''

As a teenager, Chris had been a fierce wrestler. He was just as ferocious in his efforts to wrestle his disease into submission. He did not allow it to defeat him.

Perhaps because he knew what it meant to suffer, Chris was an unusually compassionate man. He leaves behind an incredible number of friends. I want to extend my condolences to them.

I also want to extend my prayers and heartfelt sympathy to Chris's parents, Mary and Jerry Georges of New York City; his sisters, Gigi Georges of Washington; Stephanie Georges Comfort and her husband Chris Comfort of Denver, Colorado and their daughter Katherine.

In the last year of his life, Chris Georges got to do the kind of reporting he really wanted to do. It was smart and important, and it illuminated what we do here. Had he lived longer, I'm sure we would have seen more of it.

I will miss reading Chris's stories. More than that, I will miss seeing him and talking to him. He was an extraordinary man.

In closing, President Clinton this morning also talked about Chris's life and his work. I ask unanimous consent that the President's remarks be printed in the RECORD as well. Thank you.

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

STATEMENT BY THE PRESIDENT

Chris Georges was a reporter's reporter. Whether he was writing about the budget, Medicare or welfare, Chris' journalistic integrity, attention to detail, and focus on the human side of policy earned him the respect of both his fellow reporters and those who work in the Congress and the White House. It was only fitting that his nomination for a Pulitzer Prize was for a story about welfare and HIV-positive children. Chris's friends and colleagues most remember his decency, integrity, wit, and sense of fairness. He will be deeply missed by his parents, sisters, and many friends.

AFRICA: SEEDS OF HOPE ACT OF 1998

Mr. SARBANES. Mr. President, I am pleased to note that yesterday both Houses of Congress passed the ''Africa: Seeds of Hope Act of 1998,'' clearing the measure for signature by the President. This legislation, which I introduced together with my colleague from Ohio, Senator DEWINE, in July, is designed to prevent hunger and malnutrition in Africa while at the same time helping American farmers and developing lasting and mutually beneficial ties between our peoples.

Food security is critical to establishing the basis for long-term peace, democracy and prosperity in Africa. By redirecting existing bilateral aid and investment programs toward small-scale farming and rural development, the ''Seeds of Hope Act'' will promote sustainable agricultural development and food security in sub-Saharan Africa. Further, this initiative will foster research and extension activities and help to build local markets, providing important opportunities for mutual cooperation between U.S. and African farmers, educators, scientists and entrepreneurs.

The bill, as adopted, is intended to accomplish several important objectives. First, it aims at providing new opportunities for the poorest of the poor, especially women, by expanding access to credit and technology, improving information and farming techniques, and creating more efficient market mechanisms.

Second, it is designed to maximize the efficiency of current aid programs. It directs the United States Agency for International Development (USAID) to focus more of its efforts on projects that improve food security and meet the needs of the rural poor, and requires the participation of affected communities in all phases of project planning and development. The initiative strengthens coordination with non-governmental organizations, cooperatives, educational institutions and local marketing associations that have relevant expertise. In this way, it encourages the latest agricultural methods and most successful business practices, while ensuring they are appropriate to local conditions and adapted to specific climates.

Third, this legislation mobilizes new resources for investment in African agriculture and rural development through the Overseas Private Investment Corporation (OPIC), working with small businesses and other U.S. entities to develop the capacities of small-scale farmers and rural entrepreneurs. Particularly in this budgetary environment, it is essential to expand the public-private partnership in this area.

Finally, the ''Africa: Seeds of Hope Act'' establishes a new and more reliable mechanism for providing emergency food aid overseas. Rather than waiting until emergencies arise to purchase food for donation, the bill establishes a humanitarian trust that buys commodities when they are in surplus and distributes them immediately when they are needed. This mechanism will allow for more timely and cost-effective responses to humanitarian crises.

Mr. President, a great deal of planning and hard work went into the passage of this legislation, not only by my colleagues and their staff members but especially by the private, voluntary organizations involved in sustainable development, such as Catholic Relief Services and Bread for the World. These organizations work directly with the African communities most affected by hunger and famine, and their input into this process was quite valuable. I commend them for their efforts, and I know they join me in welcoming the passage of this important piece of legislation.

VACANCIES REFORM ACT

Mr. LIEBERMAN. Mr. President, I want to add my voice to those supporting the passage of the Vacancies Reform Act as part of this bill. The Vacancies Reform Act addresses an enormously important issue: the need to protect the Senate's constitutional role in the appointment of Federal officers. The Constitution provides that the President's power to appoint officers of the United States is to be exercised ''by and with the Advice and Consent of the Senate.'' Unfortunately, in too many cases, over the course of the past several Administrations, the Senate's constitutional prerogatives have been ignored, through the Executive's far too common practice of appointing acting officials to serve lengthy periods in positions that are supposed to be filled with individuals confirmed by the Senate.

With the leadership of Senators BYRD and THOMPSON, we in the Governmental Affairs Committee have worked for a large part of this session to try to find a solution to this problem that reasserted the Senate's constitutional rights while at the same time avoided creating an unwarranted risk to the Government's good functioning. As noted in the Additional Views I and others signed to the committee's report, the bill the committee reported in July and the Senate considered in September went most of the way toward achieving these goals. Nevertheless, because it still contained a number of troubling provisions that, in my view, could have hindered the ability of the executive branch to carry out its duties, I could not in the end support that version of the bill.

Since the bill's floor consideration in September, all of the interested parties have worked hard and in good faith to address the concerns that remained about the bill, with the result that we now have a good bill, one that offers a measured and appropriate response to the Executive's longstanding unwillingness to comply with the dictates of the Vacancies Act. I am particularly pleased that the final version of the bill resolves one of my biggest concerns—that we not define who may serve as an acting official in a manner that, in some cases, effectively precludes anyone from serving in an acting capacity. The final version of the bill well addresses this problem by offering the President the option to choose any senior agency staff who has worked at the agency for at least 90 days to serve as the acting official.

So, Mr. President, let me once again thank Senator BYRD, Senator THOMPSON, and the others who have worked so hard on this bill. I am pleased that it soon will become law.

NUCLEAR PROLIFERATION CONCERNS WITH THE DEPARTMENT OF ENERGY'S PLANS TO USE A COMMERCIAL LIGHT WATER REACTOR TO PRODUCE TRITIUM FOR DEFENSE PURPOSES

Mr. THURMOND. Mr. President, I rise today to discuss an issue of the utmost importance to the safety and security of every American—the timely restoration of tritium production to maintain our nuclear deterrent. Some have attempted to focus this debate on cost. Mr. President, the most significant issue in this debate is not cost—it is the National Security of the United States.

For those who do not know, tritium is a radioactive gas and is an essential component of modern nuclear weapons. It decays at a rate of five-and-a-half percent per year, so in order to maintain our nuclear deterrent the tritium must be continually replaced. We have not produced tritium in this country since 1988, when the reactors at the Savannah River Site in South Carolina were shut down. Since that time the Department of Energy has examined countless options and technologies, but has not yet selected a new source. The end result of almost a decade of stalling is millions in wasted taxpayer dollars and no progress in meeting the requirements of the Department of Defense. If the Department of Energy is unable to begin the production of tritium before 2007, the impact will be unilateral U.S. nuclear disarmament. Mr. President, given the perilous international security environment that exists, we cannot afford to allow this to happen. The National Security interests of our Nation demand that we have a reliable source of tritium.

For a variety of reasons, the Clinton Administration has mismanaged this program by delaying implementation, issuing torrents of misinformation, and failing to acknowledge the true liabilities of the commercial light water reactor option. Make no mistake, through its actions, and inaction, this Administration has put our nuclear deterrent in jeopardy. This matter is of the utmost importance to the Nation and I feel compelled to raise my concerns with my colleagues here today.

The Department has narrowed its choices down to two options—the use of a commercial light water reactor at the Tennessee Valley Authority (TVA) or the use of a defense linear accelerator at a dedicated defense site. In my opinion, the only viable option, in terms of cost, reliability, ability to meet Defense Department needs, and maintain a high non-proliferation stance, is the Accelerator for the Production of Tritium (APT).

Over the past three months, a variety of inaccurate and misleading claims have been made regarding the APT option. To date, I have not come to the floor to correct these inaccuracies because my efforts were focused on completing work on the National Defense Authorization Act Conference Report. The enactment of this bill is essential to the armed forces of the United States. It provides the men and women who wear the uniform of our Nation with a much needed pay raise, it includes many vital readiness enhancements, and provides for the long-term modernization of our military. However, now that the Conference Report has been signed by the President and is law, I wish to take a few moments to voice my concerns with the Department of Energy's tritium production program.

Despite the flood of misinformation, one fact remains abundantly clear and irrefutable—that we must have new tritium production source very soon or leave our Nation without the nuclear deterrent that has kept the peace so well for the past 50 years. Mr. President, let me state this plainly. My fear is that the commercial light water reactor option may never yield the tritium needed to maintain our defense nuclear stockpile. The regulations of the Nuclear Regulatory Commission make a commercial reactor vulnerable to third party intervenor lawsuits and as a result, that litigation could easily block that facility from coming on-line before it ever produces the first kilogram of tritium for defense purposes. Only tritium produced in an accelerator, at a dedicated defense site, will assure that we have the tritium we need when we need it.

Mr. President, the cold war is over, but many dangers remain. In fact, the world may be a much more uncertain place today than it was during the height of the cold war. Despite President Clinton's rhetoric on stemming the proliferation of nuclear weapons and other weapons of mass destruction, we continue to see new and troubling proliferation trends. Recently, we learned that Iraq's nuclear program is much more advanced than previously thought. Earlier this year we witnessed the very public entry of two new nations—India and Pakistan—into the

nuclear weapons club. In the last few months we have witnessed other nations boldly demonstrate their ability to deploy missile systems capable of delivering nuclear or chemical/biological warheads onto U.S. soil.

Mr. President, these are very troubling developments indeed. All of these events demonstrate the need for the United States to maintain a viable nuclear deterrent. They also require consistent leadership on the part of the United States. Our policies on non-proliferation must be, as Secretary of State Albright said, ''unambiguous, decisive and clear.'' Unfortunately, the Clinton Administration's actions do not match up with its rhetoric. One prime example is in the area of tritium production.

By the end of this year, the Clinton Administration is required to identify its preferred method to produce new tritium. One of the options being considered is the use of a civilian nuclear reactor to produce tritium for use in U.S. nuclear weapons. Such a decision would end a five-decade-long U.S. policy which has been upheld by every President since Harry Truman. That policy states very clearly and unquestionably that the separation of civilian and military nuclear energy programs is in the best interests of the United States. It states that we should not try to turn civilian nuclear power plants into nuclear bomb plants.

Some are claiming that because the Tennessee Valley Authority is a government agency that producing nuclear weapons materials in their reactors is consistent with U.S. policy. I can tell you that it is not. The Atomic Energy Act, which governs this policy, was never intended to condone the use of commercial-use facilities to produce nuclear weapons materials. Additionally, the reactors that present the greatest threat to U.S. national security interests are, in fact, owned by the governments of Korea, Iran, Iraq, India, and Pakistan. The implications of changing our policy concerning civilian-use nuclear power reactors, despite whether they are owned by a government or a commercial entity, are far-reaching and potentially disastrous.

Anyone who is concerned about National Security and nonproliferation must acknowledge that designating a commercial-use reactor as the new tritium production source would signal to the world that it is now acceptable to use commercial-use reactors to produce materials for nuclear weapons. Let me say that one more time—it would tell the rest of the world that we believe there should be no distinction between civilian and military nuclear facilities.

Sending that message would also signal the end of commercial nuclear sales overseas. Now, every time a U.S. vendor attempted to sell a reactor to a foreign government, we would have to assess the potential of that plant becoming a nuclear weapons production site. The National Security of the United States demands that we operate at a higher standard—setting ourselves apart as a World Leader.

I am a proponent of nuclear power and I support finding alternative missions for nuclear reactors, but using a commercial reactor to create nuclear weapons materials would be devastating to the nuclear industry. If we allow this ill-conceived Clinton Administration proposal to go forward, we will no longer be able to preach from the bully pulpit on non-proliferation. We will no longer be able to tell other nations that it is unacceptable to forgo the use of their commercial reactors for military purposes. We will have crossed that formerly well defined boundary that every President knew should never be violated since the dawn of the nuclear age. This President, however, seems to feel that it is perfectly acceptable to say to the rest of the world, ''do as we say, not as we do.'' Mr. President, we cannot allow this Administration to take such an action without the intense scrutiny of Congress.

How could we go to the United Nations or the G–8 Summit and condemn nations like Iraq, Libya, Iran, North Korea, or any other nation that is so eager to establish a nuclear weapons program if we are not living up to our own standards? The simple answer is that we will not be able to do so, because civilian workers in a Tennessee Valley Authority commercial nuclear power plant will be producing weapons grade materials. Our moral authority will be lost in a cloud of hypocrisy.

Because this issue is essential to our National Security, I have asked the Secretary of Energy to re-examine the non-proliferation concerns associated with the commercial light water reactor option. I have asked him to personally confer with the Secretaries of Defense and State and with the President's National Security Advisor. I have also written Secretary of State Albright asking her to personally evaluate this issue and provide her assessments to Congress. I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. THURMOND. For the past two years, I have expressed my concern with the Administration's plans to turn civilian reactors into materials production plants. I have communicated that concern to the Secretaries of Energy and Defense. As a part of last year's Defense Authorization Act, we included a provision that required the Administration to clearly state what proliferation risks were entailed in the commercial light water reactor option. That report was not delivered until well after both the House and Senate Defense Authorization bills were completed. It stated, however, that there were non-proliferation concerns with the use of commercial light water reactor for tritium production, but indicated that such concerns were ''manageable.'' Mr. President, given the volatile proliferation risks were are facing in South Asia, the Middle East, and other quarters of the globe, do we want to settle for a ''manageable'' non-proliferation policy? This finding is hardly a glowing endorsement of the reactor option being considered by the Clinton Administration. I suggest that today's international security environment requires U.S. non-proliferation policies to be absolutely unquestionable.

To establish any other policy for the United States will not go without consequences. The series of nuclear tests carried out by the Governments of India and Pakistan is clear evidence that the Clinton Administration's credibility with the rest of the world is being questioned when it comes to non-proliferation matters. This Congress has to step up to this issue and state that civilian and military nuclear programs cannot and will not be mixed.

In addition to claiming that there is no problem with producing tritium in a non-defense facility some proponents of the reactor option have made many false statements concerning the costs of the different options.

First, many point to a review of the United States nuclear weapons program conducted by the Congressional Budget Office at the request of the Clinton Administration as proof positive of the lower cost of the reactor option. This initial review, conducted over a year and a half ago, included an assessment of DOE's tritium program only as a cursory footnote in the larger report. The CBO did not assess the current modular accelerator design, which everyone agrees is dramatically cheaper, nor did the CBO conduct any assessment of the proposed cost to complete the reactor option.

Several months ago, the CBO attempted to justify its earlier report by updating its findings. The result was an even more inaccurate depiction of the two tritium production options. This report was riddled with inaccuracies. In my response to this flawed report, I identified a number of deficiencies in the CBO analysis. I ask unanimous consent that my letter of September 2 be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 2.)

Mr. THURMOND. Here are just a few of the glaring errors. CBO did not consider the independent cost evaluations conducted on the accelerator design and construction estimates. CBO did not even mention the significantly lower cost modular accelerator design, which is the design currently being considered by DOE. Their report made no mention of the ancillary benefits of the accelerator that could help lower its operating cost. There was no contingency cost assessed for the reactor-based options, yet the estimated cost

for the accelerator was increased an astounding $500 million without any justification. There was no consideration of TVA's sizable debt service costs in the reactor option. The Tennessee Valley Authority currently has an outstanding $4.6 billion debt on the incomplete reactor that would have to be recovered over the life of the reactor option. This would dramatically reduce the revenue stream projected for the reactor option. Current law requires that TVA recuperate such costs on a schedule and basis that advantages the ratepayers. In short, if the gross revenues projected by TVA fall short or operating expenses cost more, TVA would face a legal conflict—fulfill its contractual obligation to pay DOE a share of gross revenues or fulfill its legal obligation to recover the costs. CBO did not account for this liability. There were no management and support or startup cost included in the reactor option.

The CBO analysis also ignored many programmatic requirements found in the Department's August 1998 Draft Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor (EIS). The EIS states that ''at least two reactors would be needed'' and further states that ''DOE could use as many as 3 reactors.'' The CBO report should have included additional costs in the reactor option to account for the requirement to operate at least two reactors if a reactor-based option were selected. The entire reactor-based option rests on whether or not it can meet our nuclear defense needs for tritium. The CBO failed to address this fact. It should not have been ignored and therefore undermines the credibility of the entire analysis of the commercial reactor option.

The CBO report failed to include any contingency costs in the reactor option to account for TVA's poor record in completing large reactor projects. The average TVA cost overrun on reactor construction projects is well over 150 percent. This fact was also ignored by the CBO analysis.

These are but a few of the deficiencies in the CBO cost analysis. Yet, this is the report that some are relying on when they tell you that the reactor is the lowest cost option. Well, I don't buy that. I also don't put much stock in the argument that says the reactor option can't cost more, because it is a fixed price contract. Given the Department's recent setbacks in fixed price contracting, it is inconceivable that DOE or CBO would simply accept a ''fixed price'' offer at face value and not consider the issues I have just raised. Many are aware of the fixed price contract that DOE signed at the Idaho Pit 9 facility. Those who are aware of this contract know that DOE spent several hundreds of millions of dollars on this cleanup project and not one square inch of that facility has been cleaned up. Three years later, that matter is still in dispute. We cannot afford to allow such delays to threaten an activity as vital as tritium production.

I have asked the CBO to re-examine this matter and provide a thorough and complete assessment to Congress by early 1999. In addition, I have requested that the GAO provide a complete and independent review of the competing tritium production options. I ask unanimous consent that my letters of August 26 and September 4, 1998, be printed at the conclusion of my remarks.

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

(See Exhibits 3 and 4.)

Mr. THURMOND. I have just told you about the CBO review. Now let me tell you about an analysis conducted by the Congressional Research Service which was an exhaustive and complete examination of both the reactor and accelerator options. This assessment was released June 18, 1998, by the defense staff at the Congressional Research Service. This report found that the reactor and the accelerator options are ''competitive on a cost basis.'' The CRS report states that the cost of the reactor option ranges from $2.5 billion to $3.7 billion, while the cost of the accelerator ranges from $2.5 to $2.9 billion. In other words the accelerator could cost less than the reactor.

The CRS assessment is the most in depth assessment conducted on the costs of the two tritium options to date. It represents the most recent information available and it says the costs of the reactor and the accelerator are comparable, that there are no technical risks associated with the accelerator, and that the accelerator actually has a greater chance of returning revenue to the U.S. Treasury than the reactor.

The revenue producing potential of the accelerator is one of the many things that the CBO assessment failed to account for fully. Because the accelerator will operate on a continuous basis, it is possible to use a portion of the accelerator beam to produce much needed medical isotopes which can be used to treat prostate, breast, and many other types of cancers. The production of these isotopes will have no impact on the facility's tritium production. This ''swords to plowshares'' approach could, conservatively, raise $100 or $500 million per year in revenue for the Federal government. This compares with the $25 to $100 million annual revenue projected to be available from the reactor option, and the accelerator produces no hazardous legacy materials like spent nuclear fuel while at the same time maintaining our strong non-proliferation policies.

It is critical that the facts about the options for producing tritium are known. Choosing to produce this nuclear defense material in a commercial light water reactor will sacrifice our position as the world leader on this issue. The accelerator is the right option for our Nation.

I have mentioned a few of the advantages of the accelerator, but the real advantage is that it is the technology of the future. Unlike the reactor option, the accelerator generates no nuclear waste, cannot threaten surrounding communities, and requires no hazardous materials to be shipped across the country.

In fact, the accelerator may actually help destroy the ever growing volumes of spent nuclear fuel and other nuclear wastes. The accelerator could be used in a full-scale demonstration of a process known as the accelerator for the transmutation of waste (ATW). This innovative new process could reduce by 95 percent the volume of high level nuclear waste currently planned to be buried in a repository in the Nevada desert. The ATW would also generate electricity in the process.

As I previously stated, the accelerator could be used to create medical isotopes. The U.S. has very little indigenous isotope production capability. The accelerator will make it possible to create revolutionary new medical treatements to treat a wide variety of cancers. For example, one isotope that can be created in the accelerator would allow victims of prostrate cancer to be fully treated without any surgery. The radioactive medicines created in the accelerator could be designed specifically to attack only cancerous cells, obviating the need for surgery or radical, whole body radiation treatments. New treatments could also be developed for breast and other terminal cancers. In addition to medical isotopes, industrial isotopes can be created which have important and beneficial applications for both our National Defense and NASA.

There are many other uses for the accelerator that could enhance the lives of citizens throughout the country. These ancillary benefits are achieved without the generation of a single cask of spent nuclear fuel, without any compromise in our stance against the proliferation of nuclear weapons, and without any added cost to the Department of Energy or Department of Defense.

It is because of these concerns that I rise to express my opposition to the use of a commercial facility to produce tritium for defense purposes and wholeheartedly endorse the APT as the preferable choice to protect the National Security interests of the United States.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 23, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY ALBRIGHT: The recent nuclear arms race in India and Pakistan has underscored the need to maintain the most vigilant nuclear nonproliferation programs and policies. You validated that sentiment on June 3, 1998, when you stated, ''American leadership should be unambiguous, decisive, and clear.'' In light of your strong stance against nuclear proliferation, I would appreciate your personal position on this important National Security issue.

A cornerstone of our nonproliferation policy for the past 50 years has been the strict

separation of the commercial and defense nuclear programs in the United States. As the Atomic Energy Act, Section 57e confirms, materials made for ''nuclear explosive purposes'' may not be produced in a commercial facility.

The policy of separating commercial and defense facilities in the production of nuclear weapons materials is now being jeopardized. As you may know, tritium gas is a radioactive material used to boost the explosiveness of a nuclear weapon. The United States produced tritium at a defense-only facility for over 40 years. We have not produced any tritium since 1988, relying on a large stored quantity. Because tritium decays over time, the United States will need a new source of tritium by 2005, in order to meet the level allowed by the START I treaty. Without this material the weapons of our Nation's nuclear arsenal are useless.

During the FY 1993 budget process, Congress directed the Department of Energy (DOE) to examine possibilities of a new source for tritium. DOE has since adopted a dual-track strategy to investigate a Commercial Light Water Reactor option and an Accelerator for the Production of Tritium option. The Commercial Light Water Reactor option being considered is the completion of the Bellefonte reactor owned by the Tennessee Valley Authority. The Accelerator would be built at a DOE facility, the Savannah River Site—the site which produced tritium until 1988.

In the FY 1998 Defense Authorization Act, Congress requested that the Department of Energy take the lead to identify and assess any policy issues associated with the various reactor options for the production of tritium for national security purposes. In July 1998, in conjuction with the Department of State Arms Control Office, the Department of Defense, and the Nuclear Regulatory Commission, the DOE issued a report entitled ''Interagency Review of the Nonproliferation Implications of Alternative Tritium Production Technologies Under Consideration by the DOE.'' This report assessed the proliferation risks associated with producing tritium in a commercial light water reactor and concluded that these risks were ''manageable.'' Further, the report cites a number of examples in an attempt to show that the separation of civilian and military facilities has not been strictly upheld.

First, I believe that any new policy which could inadvertently result in the proliferation of fissile materials cannot be classified as ''manageable.'' Second, all of the examples of dual-use facilities described in the report involved deriving a civilian benefit from a defense facility. Using facilities developed initially for military purposes and then converting them to civilian use has found ready acceptance in the past. I embrace the concept of peace coming from war, but not the reverse.

Given today's international security environment, would you please outline how the United States would defend a ''manageable'' proliferation risk?

Do you believe that abandoning the 50 year separation between commercial and defense nuclear facilities in regards to producing nuclear weapons material and implementing the new policy of producing nuclear weapons materials in a commercial light water reactor will undermine our moral authority to press for the strongest possible nonproliferation regime?

As you know, India claims to have detonated a boosted nuclear weapon, which would require the use of tritium. This claim raises the question, did India produce tritium in its government owned, commercial reactors? Moreover, if India is able to produce tritium in a commercial reactor, supposedly under IAEA inspection, could they also have successfully diverted fissile material from the same reactor? Do you believe that changing the existing United States policy of separating civilian and military nuclear facilities in regards to producing nuclear weapons material will validate the India weapons program and send a signal to other nations that the United States is not opposed to the use of government owned, commercial reactors for the production of nuclear weapons materials?

The United States has spent hundreds of millions of dollars to prevent the production and spread of weapons-usable materials such as plutonium and highly enriched uranium. Do you believe we would lose this important investment if we initiate a new policy which could embolden threshold nuclear states to embark on new fissile material production programs in commercial nuclear plants?

I contend that relying on commercial nuclear reactors to supply nuclear materials for our warheads will cross a boundary that all U.S. Presidents from Harry Truman to George Bush knew should never be violated. Furthermore, I suggest that given the international security environment we live in today, our Nation's nonproliferation policy should be absolutely unquestionable. Our leadership in the area of nuclear non-proliferation will be emulated around the World. The consequences of our example will be solely ours to bear.

I have worked to preserve the security of our Nation throughout my career as a United States Senator. As Chairman of the Senate Armed Services Committee one of my top priorities has been the timely resumption of tritium production at a facility that is both cost-effective and politically defensible. I believe the National Security of the United States and our leadership in the international community depends upon maintaining the 50 year policy which separates commercial and defense facilities for the production of vital nuclear materials.

Due to the many sensitive foreign policy issues facing the United States, such as the nuclear reactor project in North Korea for peaceful purposes, I believe we need to be very cautious in changing an established United States policy which might send mixed signals to countries who depend upon our consistent leadership. Again, I would appreciate your personal position on this matter as well as your response to the specific questions I have raised in this letter. I look forward to hearing from you soon.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

EXHIBIT 2

U.S. SENATE,
Washington, DC, September 2, 1998.

MS. JUNE E. O'NEILL,
Director, Congressional Budget Office, Washington, DC.

DEAR MS. O'NEILL: I am writing to respond to your August 27, 1998 report on the Department of Energy's (DOE) tritium production options. I have reviewed the report and find it to be incomplete and based on preliminary, unverifiable information. As such, I consider the conclusions of the report to be inaccurate. I am disappointed that the Congressional Budget Office appears to have fallen far short of its customary high quality work.

First, let me say that the cost figures presented for the Commercial Light Water Reactor (CLWR) options have not been validated by the Department of Energy's Chief Financial Officer and are based solely on preliminary contractual discussions between DOE and a potential vendor. Additionally, while the Accelerator for the Production of Tritium (APT) option has been subjected to numerous independent cost evaluations (ICE) for all design and construction costs, none of the reactor-based options have been subjected to an ICE review. Your report failed to note the tentative nature of the CLWR cost figures. In the case of the irradiation services option, there is not even a valid proposal. The potential vendor for that option, the Tennessee Valley Authority (TVA), withdrew its proposal to provide such services many months ago. Your report failed to note this fact as well.

Second, your report left out many critical pieces of information, including the following:

1. Your report states, ''All of the options assume that DOE must make enough tritium to support a nuclear stockpile of the size allowed by the START I treaty.'' However, the analysis ignored many programmatic requirements found in the Department's August 1998 Draft Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor (EIS). The EIS states that ''at least two reactors would be needed'' and further states that ''DOE could use as many as 3 reactors,'' to produce the tritium required to support a START I stockpile. The CBO report should have included additional costs in the CLWR option to account for the requirement to operate at least two and possibly three reactors in order to satisfy the START I requirements. Your failure to do so produced an invalid comparison.

2. There was no mention of the significantly lower cost of the modular APT design currently being considered by DOE, nor was the option of pursuing a modular APT even mentioned. The cost of constructing the modular APT is equivalent to the cost of completing the Bellefonte reactor and would still allow the United States the option to meet a START I production level in the future should START II not be ratified.

3. There was no mention of the fact that the TVA option assumes full up-front, block funding over a one or two year period. It would be virtually impossible for the DOE Office of Defense Programs to make two $1 billion payments to TVA in fiscal years 2000 and 2001, therefore the cost assumptions on the Bellefonte option are invalid.

4. There was no mention of any ancillary benefits of the APT. The APT would be highly effective in conducting research in high energy physics, medical treatments, and waste management. It could also directly support DOE research or transmutation of high level nuclear waste. Not only could these programs be a source of additional revenue for the APT, but such activities would also serve the larger public good.

5. There was no mention of the independent cost evaluations that have been conducted for the APT design and construction costs.

6. There was no consideration of TVA's sizable debt service costs in the total estimated cost of the Bellefonte option. Your report correctly asserts that TVA's $4.6 billion outstanding debt on the Bellefonte plant must be recovered through gross revenues at the plant. Ultimately, TVA rate payers will pay the full cost of this debt and the associated interest costs. Current law requires that TVA recuperate such costs on a schedule and basis that advantages the rate payers. In short, if the gross revenues projected by TVA fall short or operating expenses cost more, TVA would face a legal conflict. It would either have to fulfill its contractual obligation to pay DOE a share of gross revenues or fulfill its legal obligation to recover the costs on behalf of the rate payers.

7. There were no management and support or startup costs included in the Bellefonte

cost projections despite TVA's poor facility start up record. The report added $500 million to the APT cost to account for such activities. It is clear that DOE will incur added management, operations and startup costs for the CLWR. If these costs are not included for the TVA option, they should not be included for the APT project.

8. The CBO report assessed the APT option a 35% contingency cost penalty to account for DOE's poor record in completing large construction projects on time and within budget. The report accurately states that the average overrun for large DOE construction projects is 50%. However, the CBO report did not include a similar contingency penalty in the TVA Bellefonte cost estimate, despite the fact that according to the 1995 Congressionally mandated TVA Integrated Resource Plan, the average TVA cost overrun on reactor construction projects ranged from 100 percent to 230 percent. In addition, the cost estimates for the CLWR tritium extraction facility and the target fabrication facilities should have included a contingency cost penalty.

9. There was no mention of the regulatory and schedule barriers which could slow or block licensing a new or existing CLWR to produce tritium for defense purposes. Licensing commercial nuclear facilities falls under the jurisdiction of the Nuclear Regulatory Commission (NRC). The most recent attempts to build and license new CLWR's have resulted in extraordinary challenges by anti-nuclear groups and other intervenors. Numerous work stoppages have resulted in massive time delays and cost overruns. The last TVA CLWR to be licensed was the Watts-Barr I facility. That facility received a construction permit on January 23, 1973 and finally began operating on May 26, 1996—over 23 years later. The Bellefonte Reactor would prove especially contentious due to the obvious controversy of producing materials for nuclear weapons in a commercial nuclear facility. I am greatly concerned if the CLWR option is chosen, delays could occur which would result in tritium being unavailable when the current stored supply is exhausted and when a new source is required.

The totality of these deficiencies in the CBO's cost analysis of the tritium production options being considered by DOE makes the report's findings highly speculative and not entirely useful as a planning document. It does not appear as though CBO held any discussions with the DOE, vendor, or laboratory program leaders for the options under consideration. Further, it does not appear that CBO considered a wide variety of external reviews that have already been conducted, such as the July 1998 Congressional Research Service report which presented extensive documentation for its findings. Given the Department's recent setbacks in the Idaho Pit 9 fixed price contract, it is inconceivable that DOE or CBO would simply accept a ''fixed price'' offer at face value. A fixed price contract is only a good deal if you believe the vendor can perform the work described within the cost and schedule projections estimated.

The resumption of reliable tritium production that meets the National security requirements of the United States is one of the most difficult issues facing the Defense Authorization process this year. Unfortunately, your analysis of the costs of the various options is flawed and rather than shedding light on the true potential costs, it has caused further confusion. You are responsible for ensuring that the parameters governing CBO assessments are not skewed to assure a particular outcome and that the information used in conducting such analyses is balanced and fully transparent. I believe this report falls far short of the standard the CBO has traditionally met, and given the inaccuracies and deficiencies I have outlined in this letter, I am confident that you will move forward with all due haste to review and reconsider your incomplete findings. I look forward to receiving your revised and accurate report as soon as possible.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

EXHIBIT 3

U.S. SENATE,
Washington, DC, August 26, 1998.

Mr. JAMES HINCHMAN,
Acting Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. HINCHMAN: Tritium gas is a critical element of thermonuclear weapons and is used in every U.S. nuclear warhead. Without this element the nuclear weapons of our Nation's arsenal are useless. As the recent nuclear arms race in India and Pakistan have underscored, and as rogue nations such as North Korea, Iran and Iraq continue efforts to acquire nuclear weapons capabilities, it is absolutely essential that the United States maintain a nuclear stockpile at the highest level of readiness.

Tritium has not been produced by the United States since 1988. Since this gas decays over time, identifying a new source is clearly vital to our National Security. I have consistently maintained that it is one of our highest responsibilities to identify and develop a viable and secure tritium production source.

During the FY 1993 budget process, Congress directed DOE to examine possibilities for a new source of tritium. DOE has since adopted a dual-track strategy to investigate the Commercial Light Water Reactor (CLWR) option and the Accelerator for the Production of Tritium (APT) option.

On August 25, 1998 while visiting the Savannah River Site, Secretary of Energy Bill Richardson stated that, ''The decision (on the tritium production source) will be made on the bases of science and not politics.'' Unfortunately, it is no secret that the Administration has been leaning heavily toward the CLWR option, Recently, numerous allegations have surfaced which suggest that senior level officials at DOE have engaged in a systematic campaign to undermine the validity of the APT option. These allegations are extremely disturbing. The National Security of the United States demands that the study of the two tritium production options be approached with the utmost care and precision.

In light of the enormous implications of this decision and the allegations which imply that the final selection may be based on factors other than merit, I request you conduct an in-depth analysis of the competing tritium production options. This investigation should include, but not be limited to, the following aspects:

Is the Dual Track Strategy Balanced?—Does the evidence support the allegations that DOE principals and staff are attempting to skew the outcome of the tritium selection process to advance the CLWR option over the APT option? Has Dr. William Bishop, the Director of the APT office, or any other DOE employee been threatened, pressured, censured, reprimanded, etc. because their actions might enhance the APT option over the CLWR option? Have threats, pressures or reprimands created an environment which would limit the ability or desire of DOE employees to present balanced information about the tritium source selection process? Have key DOE employees, specifically Chief Financial Officer Michael Telson and the Director of Nonproliferation and National Security Rose E. Gottemoller, been excluded from fully participating in the ''dual track'' process?

Proliferation Concerns—President Clinton recently indicated in a July 24, 1998 press release that nuclear nonproliferation is ''one of the nation's highest priorities.'' A cornerstone of our nonproliferation policy for the past fifty years has been the strict separation of the commercial and defense nuclear programs of the United States. DOE recently stated that the nonproliferation involved in producing tritium in a CLWR are ''manageable.'' I contend that relying on commercial nuclear reactors to supply nuclear materials for our warheads will cross a boundary that all U.S. Presidents from Harry Truman to George Bush knew should never be violated. Furthermore, I suggest that given the international security environment we live in today, our Nation's nonproliferation policy should be absolutely unquestionable.

Environmental and Safety Concerns—This issue has many facets. Clearly one of the more contentious aspects of the environmental issue is the storage and disposal of the legacy materials and wastes from our defense programs and our nuclear power generation industry. Your analysis should examine the impact of the two options on this problem. I am aware that the addition of one production reactor would not greatly exacerbate the current situation. However, it is my understanding that the APT option could actually serve to reduce the storage of waste problem through the Accelerator Transmutation of Waste process. DOE, which is responsible for managing the significant nuclear waste we have produced, appears to have ignored this ground breaking technology in their considerations.

Regulatory and Schedule Concerns—Licensing a new CLWR falls under the jurisdiction of the Nuclear Regulatory Commission (NRC). The most recent attempts to build and license new CLWR's have resulted in extraordinary challenges by anti-nuclear groups and other intervenors. Numerous work stoppages have resulted in massive time delays and cost overruns. The last Tennessee Valley Authority (TVA) CLWR to be licensed was the Watts-Barr I facility. That facility received a construction permit on January 23, 1973 and finally began operating on May 26, 1996—over 23 years later. The Bellefonte Reactor would prove especially contentious due to the obvious controversy of producing materials for nuclear weapons in a commercial nuclear facility. I am greatly concerned if the CLWR option is chosen, delays could occur which would result in tritium being unavailable when the current stored supply is exhausted.

Cost—I have consistently maintained that the production of tritium is not a cost issue, it is a National Security issue. Therefore, ensuring the capacity to produce the material in a manner which is consistent with our proven nonproliferation policy is more important than cost considerations. However, in this era of constrained spending it is essential that we select a production technology which is fiscally responsible. On July 21, 1998 then Acting Secretary of Energy, the Honorable Elizabeth A. Moler, sent a letter to me in which she cited DOE's ''official'' departmental cost estimates. In my response, dated July 24, 1998, I outlined a number of serious concerns I had regarding her ''official'' estimates. I have included copies of both of these letters for your review. As I indicated at that time, I was informed by DOE Chief Financial Officer Michael Telson, that the numbers cited as ''accurate'' and ''official'' for the CLWR option were not validated by DOE, but were merely forwarded from the Tennessee Valley Authority (TVA) as the Bellefonte proposal. DOE embraced these

numbers and forwarded them to Congress as ''accurate'' and ''official'' despite the fact that TVA's record of forecasting the cost to complete nuclear plants is woeful. As part of the Congressionally mandated TVA Integrated Resource Plan, TVA reviewed the accuracy of estimates it has produced since 1987. The review found that TVA's rate of error for predicting future nuclear plant costs ranged from 100% to 230%. Furthermore, DOE allows TVA to claim that revenue from selling electricity from Bellefonte would repay the costs the American taxpayers would incur for completing the reactor. Given that the Bellefonte reactor has a current debt of $4.5 billion and that the cost of electricity is expected to decline, the Congressional Research Service, in the recent report ''the Department of Energy's Tritium Production Program'', indicated that the likelihood that a completed Bellefonte plant could sell electricity at a price high enough to recover the taxpayer's investment is ''highly uncertain.'' By contrast, when APT program officials attempted to study the possibility of generating revenue through the commercial leasing of the APT to produce medical isotopes, they were instructed to ''cease any work''. Why would DOE allow the ''official'' CLWR numbers to include highly suspect revenue potential from power generation and not consider revenue from a market which is projected to exceed $5 billion by 2010? Your providing an accurate and complete cost comparison of the two competing tritium production options will finally clarify the costs and allow the debate to be based on truly accurate information.

I firmly believe that this is one of the most important issues facing the nation. The security of the United States and the world depends on the maintenance of a credible U.S. nuclear deterrent. Due to the extraordinary consequences of the tritium production technology decision, I request you begin this investigation as soon as possible. Thank you for your attention and I look forward to hearing from you soon.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

EXHIBIT 4

U.S. SENATE,
Washington, DC, September 4, 1998.

Mr. JAMES HINCHMAN,
Acting Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. HINCHMAN: I am writing to follow up my August 26, 1998 letter to you regarding tritium production. There are additional issues that I would like your report to address concerning this important National Security program.

On August 27, 1998, the Congressional Budget Office (CBO) issued a report analyzing the two options for producing tritium, the Commercial Light Water Reactor (CLWR) and the Accelerator for the Production of Tritium (APT). After reviewing the CBO report (Attachment I), I find it to be incomplete and based on preliminary, unverifiable information. As such, I consider the conclusions of the report to be inaccurate. The fact that the Congressional Budget Office appears to have fallen far short in their analysis makes your investigation of the tritium program even more important.

There are a number of problems with the CBO report which you should be made aware of as you begin your own investigation. First, the cost figures presented for the CLWR option have not been validated by the Department of Energy's Chief Financial Officer and are based solely on preliminary contractual discussions between DOE and a potential vendor. Additionally, while the APT option has been subjected to numerous independent cost evaluations (ICE) for all design and construction costs, none of the reactor-based options have been subjected to an ICE review. The report failed to note the tentative nature of the CLWR cost figures. In the case of the irradiation services option, there is not even a valid proposal. The potential vendor for that option, the Tennessee Valley Authority (TVA), withdrew its proposal to provide such services many months ago. The report failed to note this fact as well.

Second, the report left out many critical pieces of information, including the following:

1. The report failed to make a parallel comparison of the options needed to make the required amount to tritium for our Nation's nuclear stockpile. CBO states, ''All of the options assume that DOE must make enough tritium to support a nuclear stockpile of the size allowed by the START I treaty.'' However, the analysis ignored the programmatic requirements set forth in the Department's August 1998 Draft Environmental Impact Statement (EIS) for the Production of Tritium in a Commercial Light Water Reactor. The EIS states that ''at least two reactors would be needed'' and further states that ''DOE could use as many as 3 reactors,'' to produce the tritium required to support a START I stockpile. Solely estimating the cost to complete the Bellefonte reactor as the CLWR option to produce tritium is not in line with current DOE programmatic assessments because it will not satisfy the stockpile needs at a Start I level. Your report should analyze the costs associated with producing tritium in an APT compared to producing tritium in the required number of reactors to achieve a START I level. A more accurate comparison would be to analyze the costs of producing tritium in an APT versus producing tritium at Bellefonte at a START II level, an amount that could be achieved by a single reactor during an 18-month refueling cycle.

2. Again, due to the unparalleled comparison by CBO, a more appropriate comparison of the two options would be to analyze the costs of a Stat II level. However, in the CBO report there was no mention of the significantly lower cost for the modular APT design currently being considered by DOE, which would meet START II requirements. Furthermore, the option of pursuing a modular APT was never mentioned. The cost of constructing the modular APT is equivalent to the cost of completing the Bellefonte reactor and would still allow the U.S. to move to a START I production level in the future if START II is not ratified.

3. There was no mention of the fact that the TVA option assumes full up front, block funding over a one or two year period. It would be virtually impossible for the DOE Office of Defense Programs to make two one-billion dollar payments to TVA in fiscal years 2000 and 2001; therefore, the cost assumptions are invalid.

4. There was no mention of any ancillary benefits of the APT. The APT would be highly effective in conducting research in high energy physics, medical treatments, and waste management. It could also directly support DOE research on transmutation of high level nuclear waste. Not only could these programs be a source of additional revenue for the APT, but such activities could serve the larger public good.

5. There was no mention of the independent cost evaluations that have been conducted for the APT design and construction costs.

6. There was no consideration of TVA's sizable debt service costs in the total estimated cost of the Bellefonte option. The report correctly asserts that TVA's $4.6 billion outstanding debt on the Bellefonte plant must be recovered through gross revenues at the plant. However, the debt service on $4.6 billion over 40 years averages well over $200 million per year. Taking this into account, it would appear that Bellefonte will operate at a significant loss every year it produces tritium. Current law requires that TVA recuperate such costs on a schedule and basis that advantages the ratepayers, therefore TVA would face a legal conflict. It must either fulfill its contractual obligation to pay DOE a share of gross revenues or fulfill its legal obligation to the ratepayers. In either scenario there will be significant outstanding costs that will have to be assumed by either TVA ratepayers or, in a more likely situation, the American taxpayers.

7. There were no management and support or startup costs included in the Bellefonte cost projections despite TVA's poor facility start up record. The report added $500 million to the APT cost to account for such activities. It is clear that DOE will incur added management, operations and start up costs for the CLWR. If these costs are not included for the TVA option, they should not be included for the APT project.

8. The CBO report assessed the APT option a 35% contingency cost penalty to account for DOE's poor record in completing large construction projects on time and within budget. The report accurately states that the average overrun for large DOE construction projects is 50%. However, the CBO report did not include a similar contingency penalty in the TVA Bellefonte cost estimate, despite the fact that according to the 1995 Congressionally mandated TVA Integrated Resource Plan, the average TVA cost overrun on reactor construction projects ranged from 100 percent to 230 percent. In addition, the cost estimates for the CLWR tritium extraction facility and the target fabrication facilities should have included a contingency cost penalty.

9. There was no mention of the regulatory and schedule barriers which could slow or block licensing a new or existing CLWR to produce tritium for defense purposes. Licencing commercial nuclear facilities falls under the jurisdiction of the Nuclear Regulatory Commission (NRC). The most recent attempts to build and license new CLWR's have resulted in extraordinary challenges by anti-nuclear groups and other intervenors. Numerous work stoppages have resulted in massive time delays and cost overruns. The last TVA CLWR to be licenced was the Watts-Barr I facility. That facility received a construction permit on January 23, 1973 and finally began operating on May 26, 1996—over 23 years later. The Bellefonte Reactor would prove especially contentious due to the obvious controversy of producing materials for nuclear weapons in a commercial nuclear facility. I am greatly concerned if the CLWR option is chosen, our nation runs the risk of subjecting the entire nuclear arsenal to lawsuits from third-party intervenors. This delay would result in tritium being unavailable when the current stored supply is exhausted.

The totality of these deficiencies in the CBO's cost analysis of the tritium production options being considered by DOE makes the report's findings highly speculative and not entirely useful as a planning document. It does not appear that CBO considered a wide variety of external reviews that have already been conducted, such as the July 1998 Congressional Research Service report which presented extensive documentation for its findings. Given the Department's recent setbacks in the Idaho Pit 9 fixed price contract, it is inconceivable that DOE or CBO would simply accept a ''fixed price''

offer at face value. A fixed price contract is only a good deal if you believe the vendor can perform the work described within the cost projections estimated.

Your investigation of the tritium program should incorporate an analysis of the above issues as well as those mentioned in my previous letter. While the CBO report could have shed light on the pros and cons of each option to produce tritium, it only clouded the matter further. The General Accounting Office report should ensure a balanced discussion of this issue that is so vital to the National Security of our Nation.

With kindest regards and best wishes.

Sincerely,

STROM THURMOND.

SENATOR DAN COATS

Mrs. BOXER. Mr. President, I take this opportunity, on our last day of session, to say farewell to my colleague, Senator DAN COATS of Indiana. While we have disagreed on many issues, I note that he was a supporter of one of the most important legislative accomplishments of the past few years—the Family and Medical Leave Act. He has also long been a champion of government support for adoption, and is, as am I, a strong advocate for after school, tutoring and mentoring programs. Recently, he helped move through the Congress the reauthorizing bill for ''Head Start'', one of our most effective programs for disadvantaged children.

DAN COATS is a long time member of the Big Brothers/Big Sisters of America, and was recently elected president of the organization. I know that he is looking forward to devoting more time to his Big Brother responsibilities, and I wish him all the best.

SENATOR DIRK KEMPTHORNE

Mrs. BOXER. Mr. President, as the Senate completes its work and the 105th Congress comes to a close, I want to take this opportunity to say farewell to one of my colleagues who has decided to leave this body and pursue other activities.

The junior senator from Idaho, DIRK KEMPTHORNE, and I were both elected to the Senate in 1992. We have served together for the past 6 years on the Environment and Public Works Committee. While we have disagreed on many environmental issues, I have always enjoyed working with him and appreciated his personal kindness. He is a gentleman of impeccable manners and good humor. And he is known to all his colleagues as one of the ''workhorses'' of the Senate: a senator who does his work quietly and responsibly, and does not insist on getting all the credit for the results.

My very best wishes to Senator KEMPTHORNE as he leaves Washington to return to his home in Idaho, and the best of luck in all that he does in the years to come.

PRAISE AND FAREWELL FOR SENATOR WENDELL FORD

Mrs. BOXER. Mr. President, I would like to say a few words before the close of the 105th Congress about my friend and colleague, WENDELL FORD, the very distinguished senior senator from the great state of Kentucky. His retirement from the Senate this year leaves this body of government missing a cornerstone that I am not sure we can replace anytime soon.

From the heartland of these United States, he is a strong, resonant voice for the working people of this nation. This Senate chamber will sound a bit hollow without that gruff, but friendly voice crying out for ''order'' in these chambers.

I have served for six years now with Senator FORD. During our time together I have known him as a stalwart ally in our party and a valuable friend. As an indefatigable champion for Kentucky, he never betrayed that trust that the people who elected him four times to the United States Senate bestowed upon him. That he has been able to keep his feet firmly grounded in Kentucky's interests while extending his helping hand to Senators from every region of this nation is a testament to his skill, temperament and wisdom.

I cannot speak of Senator FORD without expressing my admiration for his leadership on the Committee on Commerce, Science and Transportation, particularly his service as chairman and ranking member of the Subcommittee on Aviation. No issue is small to Senator FORD if it is a big issue to his colleague. I remember early in my tenure here that he worked with me on an issue that I have struggled with every since I came to House of Representatives and later as a Senator. We needed the Federal Aviation Administration to work with other Federal agencies and clean up an abandoned radar site on Mt. Tamalpais in my home county of Marin.

I had been here only a year or so before Senator FORD sliced through the bureaucratic tangle and resolved this local problem at long last in the 1994 FAA Reauthorization bill.

He was also there for the State of California when we were trying to get the California Cruise Ship Industry Revitalization Act accepted in conference. He stood in the door of that conference—refusing to call it complete—until our provision was accepted. This provision has provided enormous benefits for our ports in California, and we are grateful for his untiring assistance.

While helping on these local and State issues, he has been the strongest advocate for our airports, particularly in using the Airport trust fund for what it was intended modernizing and upgrading airports across the country to keep them safe and competitive. I was proud to see that we named the FAA reauthorization bill this year, the Wendell H. Ford National Air Transportation System Improvement Act. The truth is I feel like every time we have voted for the FAA reauthorization bill it has had his stamp upon it.

I wish the Senator from Kentucky a fond farewell—but not goodbye. He will always be in my thoughts and in my heart. And I know his voice will still echo throughout these hallowed halls—and in the halls of our memories, we will forever remember WENDELL FORD's decency, compassion, and plain old common sense.

JOHN GLENN—AMERICAN HERO

Mrs. BOXER. Mr. President, in 1962, a few weeks before becoming the first American to orbit the Earth, JOHN GLENN appeared on the cover of Life magazine under the header, ''Making of a Brave Man.'' JOHN GLENN is indeed a brave man, but to those of us who have served with him in the United States Senate, he is much more. He is a skilled legislator, a good friend, and an honorable and decent person.

For the generation who remembers JOHN GLENN's historic trip to space 36 years ago, his return this month abroad the space shuttle is truly special. At that time, the United States was in the midst of the cold war with the Soviet Union. The Soviets could boast many achievements in space, including the launching of the first satellite. It was a tense time, and ours hopes as a nation were with JOHN GLENN and the U.S. space program.

On February 20, 1962, America held it's collective breath as GLENN's *Friendship 7* capsule circled the earth three times. During this mission, JOHN GLENN showed us why he was our hero. When a faulty signal erroneously warned that the capsule's heat shields might come loose, he remained calm and cool, even as he watched fiery bits of spacecraft flash past him during reeintry into the Earth's atmosphere. The entire country beamed with pride at this heroic accomplishment.

President Kennedy called space ''a new ocean'', and JOHN GLENN will go down in history as one of it's first and most important explorers. His flight opened the door to future missions, such as the Mercury program, Gemini program, and eventually the Apollo program that put man on the moon.

In a few weeks, America will once again beam with pride when JOHN GLENN lifts off from Kennedy Space Center abroad the Space Shuttle *Discovery*. As opposed to his first mission, which lasted five hours, this mission is scheduled to last nine days. During that time, Senator GLENN will participate in a number of experiments designed to find parallels between the physical stress of space flight and the natural aging process.

Scientists are hopeful of finding out why astronauts and the elderly suffer from similar ailments, such as bone and muscle loss, balance disorders and sleep disturbances. Understanding these physiological characteristics

may open the door to new and innovated treatments. I am sure Senator GLENN is as excited about these potential breakthroughs as he is about his return to space.

As a Senator, JOHN GLENN has been a wonderful advocate on many important issues. Along with his hard work on space, technology and science issues, Senator GLENN has also been a strong voice on the need for his country to increase it's investment in education. So many times, I have seen Senator GLENN with school children in the Hart Senate Office Building, and I know that he inspires our next generation of leaders as he does us.

So as Senator GLENN leaves the Senate, I want to give him my thanks for all that he has done for this country. Like all Americans, my thoughts and prayers will be with him as he makes history yet again. I wish him well on this and all his future missions.

SENATOR DALE BUMPERS

Mrs. BOXER. Mr. President, I understand that in his last campaign Senator BUMPERS used the slogan: ''What a Senator Should Be.'' I couldn't have summed it up better myself.

Throughout his 24 years in this body, DALE BUMPERS has set new standards for the office of Senator. He is sincere and compassionate. He speaks with eloquence and clarity. He is an idealist and a realist. He is courageous and principled. He can stimulate a debate and broker a deal. He has a deep understanding of the issues and a quick wit that amuses us all. He is a true populist whose dedication to improving the lives of Arkansans has benefited our nation as a whole.

I am deeply honored to have served with Senator BUMPERS for six years. I have learned a great deal from him. Because of him I have been fortunate to witness some of the Senate's most animated debates, on such issues as mining law reform, electric utility restructuring, protecting small business, preserving our public lands, arms control and fighting the now infamous space station.

He has been a voice for our precious environment, champion of consumer rights, and he has always been willing to stand up for the ''little guy'', for the interests of regular folks.

Senator BUMPERS' illustrious career began long before he was elected to the United States Senate. As a young lawyer in Charleston, Arkansas, DALE BUMPERS played a key role in the first integration of a public school after the Brown vs. Board of Education decision.

He went on to serve as Governor of Arkansas for four years, and was recently voted the ''Greatest Governor'' in the history of Arkansas by the Arkansas Times.

Fortunately, it was not often that Senator BUMPERS and I were on opposite sides of an issue. However, one of my most memorable moments in the Senate was one such occasion. We were debating an important agriculture issue and to emphasize my point, I brought a frozen chicken on the Senate floor and slammed in on a desk. Senator BUMPERS and Senator Pryor immediately raised a point of order and I had to remove that chicken from the Senate floor.

Anyone who has had to face off against Senator BUMPERS knows of the passion he feels for the issues he discusses and the people he represents. Even those who may oppose his views can't help but admire his lively speeches and personal stories. I will miss hearing his familiar sayings about pigs squealing under gates and fights with Betty. I will miss his pointer flying as he paces up and down the aisles of the floor. I will miss the passion in his voice. And most of all, I will miss my friend.

Senator BUMPERS is someone on whom I have grown to depend, a man who has always given a kind word, and a person who has been a true role model for us all.

I thank the senior Senator from Arkansas for all that he has shared with us and all that he has taught us. No doubt there will be Senators who will continue to promote the causes he cared for so deeply. But I assure you, the debates will never have the same enthusiasm, the same passion or the same flare, that Senator BUMPERS brought to this August body.

It is with reverence, awe and deep affection that I pay tribute to the truly distinguished gentleman from Arkansas, Senator DALE BUMPERS. I will miss him dearly.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on October 21, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4738. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, provide tax relief for farmers and small businesses, and for other purposes.

H.R. 4856. An act to make miscellaneous and technical changes to various trade laws, and for other purposes.

H.J. Res. 138. Joint resolution appointing the day for the convening of the first session of the One Hundred Sixth Congress.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 1757. An act to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization (NATO) proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bill was signed subsequently on October 21, 1998, during the recess of the Senate, by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 9:47 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 353. Concurrent resolution providing for the sine die adjournment of second session of the One Hundred Fifth Congress.

ENROLLED BILLS SIGNED

The message also announced that the Speaker pro tempore has signed the following enrolled bills:

S. 538. An act to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

S. 1260. An act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1722. An act to amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.

S. 2364. An act to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

S. 2524. An act to codify without substantive changes laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 10:53 a.m., a message from the House of Representatives, delivered by Ms. Kelaher, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4851. An act to withhold voluntary proportional assistance for programs and project of the International Atomic Energy Agency relating to the development and

completion of the Bushehr nuclear power plant in Iran, and for other purposes.

H.R. 4857. An act to reduce waste, fraud, and error in Government programs by making improvements with respect to Federal management and debt collection practices, Federal payment systems, Federal benefit programs, and for other purposes.

H.R. 4859. An act to improve the ability of Federal agencies to license federally owned inventions.

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

S. 1132. An act to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

H.R. 1560. An act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis & Clark Expedition, and for other purposes.

The message further announced that the House disagrees to the Senate amendments numbered 2 through 6 of the House amendment to the bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes; and agrees to the Senate amendment numbered 1 with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on October 21, 1998, he had presented to the President of the United States, the following enrolled bills and joint resolutions:

S. 2240. An act to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

S. 2246. An act to amend the Act which established the Frederick Law Olmstead National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes.

S. 2285. An act to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.

S. 2413. An act prohibiting the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made top the town of Pinetop-Lakeside or is authorized by Act of Congress.

S. 2427. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work.

S. 2468. An act to designate the Biscayne National Park visitor center as the Dante Fascell Visitor Center.

S. 2505. An act to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho.

S. 2561. An act to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

S.J. Res. 51. Joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

S.J. Res. 58. Joint resolution recognizing the accomplishments of Inspector General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government.

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–7588. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on one proposed rescission of budget authority (R98–25) dated September 29, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Energy and Natural Resources.

EC–7589. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''VISAS: Grounds of Intelligibility'' (Notice 29101) received on October 20, 1998; to the Committee on Foreign Relations.

EC–7590. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Roth IRA Guidance'' (Notice 98–50) received on October 20, 1998; to the Committee on Finance.

EC–7591. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; 30-Day Notices and 135-Day PMA Supplement Review'' (Docket 98N–0168) received on October 20, 1998; to the Committee on Labor and Human Resources.

EC–7592. A communication from the Assistant Secretary of Defense for Health Affairs, transmitting, a report on the Department's response to the Comptroller General's study of Department of Defense pharmacy programs; to the Committee on Armed Services.

EC–7593. A communication from the Executive Secretary of the Federal Reserve Employee Benefits System, transmitting, pursuant to law, the annual reports of the System's Retirement Plan and Thrift Plan for calendar year 1997; to the Committee on Governmental Affairs.

EC–7594. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the Board's report under the Program Fraud Civil Remedies Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–7595. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers'' (RIN1120–AA82) received on October 20, 1998; to the Committee on the Judiciary.

EC–7596. A communication from the National Service Officer of the American Gold Star Mothers, Inc., transmitting, pursuant to law, Independent Auditor's Report on the Corporation's Financial Statements for 1997 and 1998; to the Committee on the Judiciary.

EC–7597. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation allowing the Secretary of the Treasury to produce security documents for certain governments and organizations on a reimbursable basis; to the Committee on Banking, Housing, and Urban Affairs.

EC–7598. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Rule 102(e) of the Commission's Rules of Practice'' (RIN3235–AH47) received on October 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7599. A communication from the Director of the Office of Global Programs, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NOAA Climate and Global Change Program, Program Announcement'' (RIN0648–ZA39) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7600. A communication from the 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 ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna; Closure'' (I.D. 092398B) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7601. A communication from the Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Funds Availability for the Southeast Bering Sea Carrying Capacity (SEBSCC) Project'' (RIN0648–ZA47) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7602. A communication from the Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Coastal Services Center Broad Area Announcement'' (RIN0648–ZA49) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7603. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance About Industrial Radiography Licenses'' (NUREG–1556) received on October 20, 1998; to the Committee on Environment and Public Works.

EC–7604. 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 Promulgation of Air Quality Implementation Plans; Arkansas; Revised Format for Materials Being Incorporated by Reference'' (FRL6176–9) received on October 20, 1998; to the Committee on Environment and Public Works.

EC–7605. 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 ''Final Guidelines for Implementation of the Drinking Water Infrastructure Grants Tribal Set-Aside Program'' (FRL6179–1) received on October 20,

1998; to the Committee on Environment and Public Works.

EC–7606. 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 ''North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program'' (FRL6166–5) received on October 20, 1998; to the Committee on Environment and Public Works.

EC–7607. 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 ''Revocation of Tolerances and Exemptions from the Requirement of a Tolerance for Canceled Pesticide Active Ingredients'' (FRL6035–8) received on October 20, 1998; to the Committee on Environment and Public Works.

EC–7608. 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 ''Revocation of Tolerances for Canceled Food Uses'' (FRL6035–6) received on October 20, 1998; to the Committee on Environment and Public Works.

EC–7609. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Regulation of Fallglo Variety Tangerines'' (Docket FV98–905–5 FR) received on October 20, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7610. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Student Assistance General Provisions'' (RIN1840–AC52) received on October 20, 1998; to the Committee on Labor and Human Resources.

EC–7611. A communication from the Director of the Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Non-Discrimination Toward Inmates'' (RIN1120–AA73) received on October 20, 1998; to the Committee on the Judiciary.

EC–7612. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property'' (Rev. Rul. 98–52) received on October 20, 1998; to the Committee on Finance.

EC–7613. A communication from the Director of Washington Headquarters Services, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Regulation'' (RIN0720–AA46) received on October 20, 1998; to the Committee on Armed Services.

EC–7614. 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 NULKA Electronic Payloads and related technical data to Australia (DTC 144–98); to the Committee on Foreign Relations.

EC–7615. 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 (98–155 to 98–157); to the Committee on Foreign Relations.

EC–7616. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the Commission's consolidated report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–7617. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Cost-of-Living Allowances (Nonforeign Areas); Kauai, HI; U.S. Virgin Islands'' (RIN3206–AH07) received on October 20, 1998; to the Committee on Governmental Affairs.

EC–7618. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of a list of additions and deletions to the Committee's Procurement List dated October 13, 1998; to the Committee on Governmental Affairs.

EC–7619. A communication from the Office of Independent Counsel (In re Secretary of Agriculture Espy), transmitting, pursuant to law, the Office's consolidated annual report on audit and investigative activities and management control systems for fiscal year 1998; to the Committee on Governmental Affairs.

EC–7620. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Service's report entitled ''Status of Fisheries of the United States''; to the Committee on Commerce, Science, and Transportation.

EC–7621. A communication from the 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 ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category'' (I.D. 091198A) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7622. 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 ''Atlantic Swordfish Fishery; South Atlantic Quotas; Quota Adjustment Procedures'' (I.D. 121597D) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7623. 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 ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-Based Whiting Sector'' (I.D. 093098B) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7624. 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 ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod'' (I.D. 082798B) received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7625. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Phase Acquisitions'' received on October 20, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–555. A petition from a citizen of the State of Texas relative to the Supreme Court of the United States; to the Committee on the Judiciary.

POM–556. A petition from a citizen of the State of New York relative to the Supreme Court of the United States; to the Committee on the Judiciary.

POM–557. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 78

Whereas, in 1988, the EPA put into place regulations requiring all underground storage tank systems to meet stricter environmental protection standards. Tank systems installed before 1998 must be upgraded by December 22, 1998, or be removed; and

Whereas, Many tank owners and operators discovered leaks at their sites when they began upgrading their tank systems. Consequently, Michigan and other states have seen a dramatic increase in the number of known leaking storage tank sites; and

Whereas, While progress has been made in Michigan and elsewhere on the job of cleaning up affected areas, the task remaining is very large. It presents a serious challenge to most of the states, including Michigan. The primary obstacle to the completion of this endeavor is the high costs facing tank owners and operators to clean up their leaking underground storage tank sites; and

Whereas, A key element in the massive task of dealing with leaking underground storage tanks is the trust fund created through the Superfund Revenue Act of 1986. Funded by a .1 cent per gallon tax on motor fuel, the LUST Trust Fund has a current balance of approximately $1.2 billion. While the .1 cent per gallon tax was discontinued for nearly two years, the tax was reinstituted, beginning on October 1, 1997. The fund will take in approximately $200 million annually; and

Whereas, In spite of the fund's size and in spite of the pressing need for money by the states in order to comply with the December 22, 1998, deadline for cleanup, the fund releases a far lower amount each year than it could distribute. It is estimated that only one-third of the available money has been distributed to the states; and

Whereas, Accelerating distributions from the trust fund would provide much needed help to the States in achieving the goal of correcting one of our country's most significant environmental problems now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the Congress of the United States to increase the amount of money being distributed to the states from the Leaking Underground Storage Tank Trust Fund, and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, February 17, 1998.

Adopted by the Senate, September 15, 1998.

POM–558. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

HOUSE RESOLUTION NO. 526

Whereas, The Low-Income Home Energy Assistance Program (LIHEAP) is a vital lifeline to low-income families, working poor households, senior citizens and persons with disabilities in meeting their energy needs; and

Whereas, Low-income families, the elderly and many working poor Pennsylvanians face a continuing energy crisis with energy burdens that well exceed 15% of their household incomes; and

Whereas, The Federal funding for LIHEAP significantly eases the home energy affordability crisis faced by millions of Americans; and

* * * * *

Whereas, The total elimination of funding for LIHEAP will threaten the continuation of the Pennsylvania program that is the foundation for providing a modest amount of energy security for low-income Pennsylvanians; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to appropriate at least $1.3 billion for fiscal year 1999–2000 and an advance appropriation of at least $1.3 billion for fiscal year 2000–2001 for the Low-Income Home Energy Assistance Program; and be it further

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to reauthorize the LIHEAP program at authorization levels enacted in the Human Services Amendments of 1994 (Public Law 103–252) to ensure that this program more adequately meets the needs of low-income households.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 2648. A bill to protect children with respect to the Internet, to increase the criminal and civil penalties associated with certain crimes relating to children, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 2649. A bill to enact the Passaic River Basin Flood Management Program; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2650. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 2651. A bill to provide for a Presidential Budget in the Fiscal Year 2000 with Spending Reductions that will offset the emergency spending for Fiscal Year 1999; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. LEAHY:

S. 2652. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the safety of exported pesticides, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry..

By Mr. DURBIN (for himself, Mr. D'AMATO, and Mr. LOTT):

S. 2653. A bill to require the Committee for the Implementation of Textile Agreements to report to Congress by April 1, 1999, on the availability of certain wool fabric, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2654. A bill to provide for a judicial and administration remedy for disputes arising under certain agreements with foreign entities; to the Committee on the Judiciary.

By Mr. HARKIN:

S. 2655. A bill to limit the amounts of expenditures for the national defense budget function for fiscal years 1999 and 2000, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Res. 312. A resolution to amend Senate Resolution 209 in order to provide budget levels in the Senate for purposes of fiscal year 1999 and include the appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003; considered and agreed to.

By Mr. THOMAS (for himself and Mr. ENZI):

S. Res. 313. A resolution expressing the sense of the Senate with respect to the brutal killing of Mr. Matthew Shepard; considered and agreed to.

By Mr. HATCH:

S. Res. 314. A resolution to express the sense of the Senate regarding the authority of the Secretary of Health and Human Services to make adjustments to payments made to skilled nursing facilities under the medicare program; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 2648. A bill to protect children with respect to the Internet, to increase the criminal and civil penalties associated with certain crimes relating to children, and for other purposes; to the Committee on the Judiciary.

KEEPING THE INTERNET DECENT AND SAFE (K.I.D.S.) ACT

● Mr. DODD. Mr. President, today, I introduce the Keeping the Internet Decent and Safe (K.I.D.S.) Act. This legislation would give parents and educators tools to protect our children while they use the Internet. Moreover, this bill would give law enforcement officials the ability to make the Internet a safer environment for everyone.

Unfortunately, while innocently ''surfing'' the web, many of our children are accidentally encountering graphic and sexually explicit images. They type in search terms as innocuous as ''toys''—only to find inappropriate images on their display terminal. According to Wired magazine, there are currently some 28,000 web sites containing hard- and soft-core pornography on the Internet. And that number is growing at an alarming rate. It is estimated that more than 30 pornographic sites are added to the Internet each day.

In addition, the Internet now provides the ''strangers'' we have always warned our children about with almost unlimited access to our children. Historically, sexual predators have sought children wherever they gather—in school yards, playgrounds and malls. Today, children hang out in cyberspace. This provides the sexual predator with an almost limitless number of opportunities to exploit children because they can prowl from family room to classroom to bedroom with virtual anonymity. Clearly, this is a problem that is only going to grow worse unless we work aggressively to ensure that the Internet is a safe environment.

The bill I am introducing today would build upon provisions authored by Senator COATS and myself which were adopted as part of S. 442, the Internet Tax Freedom Act. The provisions are designed to provide some safety for young people who are being exposed today to the alarming amount of pornography on the Internet. Specifically, my amendment will require that Internet access providers make screening software available—either for a fee or no charge—to customers purchasing Internet access services, and Senator COATS' amendment establishes specific measures that commercial operators of sexually explicit sites must take to restrict access to children under the age of 17.

I am pleased that these provisions of the Internet Tax Freedom Act were passed yesterday and today by both houses of Congress as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, and look forward to the President signing them into law. Yet, it is clear that our work is not done.

I was very disturbed by a recent article in the The Washington Post which stated that law enforcement officials in the United States and abroad had uncovered an international child pornography ring in which hundreds of people were using the Internet to trade thousands of sexually explicit images of children. More than 200 ring members were arrested in the United States and 13 other countries. The U.S. Customs Service seized computers from American suspects in 22 states, including Connecticut.

That is why today I introduce the Keeping the Internet Decent and Safe (K.I.D.S.) Act. In this age of the Internet, our children have unprecedented access to educational materials via the computer. However, this wonderful technology has also brought with it a dark side for our children, and we as a nation have an obligation to ensure that our children are able to learn, grow, and play in an environment free from harm. My bill would give parents, teachers and law enforcement officers the tools they need to help protect and guide our children, as they seek knowledge and wholesome entertainment on the Internet.

First, my bill would make it possible for law enforcement officials to detain

someone before trial who is arrested for a federal crime involving child exploitation. Currently, there is a rebuttable presumption that an individual charged with a violent crime or certain drug-related crimes should be detained. Pedophiles who exploit and prey upon children are at least as great a threat to our society as drug dealers and people involved with violent crimes, and federal law enforcement officials should be able to detain them, as well.

Second, my bill would allow schools to make classroom computers safer by allowing them to use monies from such programs as Title VI and the Safe and Drug Free School Act to purchase screening software.

Finally, my bill would allow materials involved with crimes involving the sexual victimization of children—such as computers, vehicles and clothing—to be permanently seized from sexual predators by law enforcement authorities. Currently, the government can seize such materials like if they belong to a convicted pornographer, but not if they belong from a convicted child molester. Property used in crimes involving the sexual exploitation of children is equally harmful and should also be able to be seized by the Government to help thwart further criminal activity involving our children.

As we head into the 21st century, we know that an increasing number—in fact a majority—of our children are going to use the Internet for both educational and social activities. This is a positive development that we should encourage. But with this progress comes new responsibilities, not only for our young people, but also for adults. We owe it to our children to make sure that they are safe when they go on-line.

I believe that the KIDS Act will make significant strides to protect our children from harmful materials on the Internet and give law enforcement officials additional tools to clamp down on criminals who use the Internet to prey on our children. I urge my colleagues to support this effort to take reasonable steps to keep the Internet safe for our youngest and most vulnerable citizens. I ask unanimous consent that a copy 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. 2648

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 ''Keeping the Internet Decent and Safe Act''.

SEC. 2. PURCHASE OF SCREENING SOFTWARE BY ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an elementary school or secondary school may use any funds received under sections 3132 and 3136, and titles IV and VI, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6842, 6846, 7101 et seq., and 7301 et seq.) and subtitle B of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) to purchase screening software.

(b) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SCREENING SOFTWARE.—The term ''screening software'' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

SEC. 3. ENHANCED CRIMINAL PENALTIES FOR CERTAIN SEXUAL EXPLOITATION OF CHILDREN.

(a) FORFEITURE.—

(1) OFFENSES RELATING TO CHILD PORNOGRAPHY.—

(A) CRIMINAL FORFEITURE.—Section 2253(a) of title 18, United States Code, is amended—

(i) in the matter preceding paragraph (1), by inserting '', or an offense under section 2252A of this chapter involving child pornography,'' after ''of this chapter''; and

(ii) in paragraph (1)—

(I) by inserting ''any child pornography covered by section 2252A of this chapter,'' after ''of this chapter''; and

(II) by inserting ''or child pornography, as the case may be'' after ''such visual depiction''.

(B) CIVIL FORFEITURE.—Section 2254(a) of such title is amended—

(i) in paragraph (1)—

(I) by inserting ''any child pornography covered by section 2252A of this chapter,'' after ''of this chapter''; and

(II) by inserting ''or child pornography, as the case may be'' after ''such visual depiction''; and

(ii) in paragraphs (2) and (3), by inserting '', or an offense under section 2252A of this chapter involving child pornography,'' after ''of this chapter'' each place it appears.

(2) OFFENSES RELATING TO COERCION AND ENTICEMENT AND TRANSPORTATION OF MINORS FOR SEXUAL PURPOSES.—

(A) IN GENERAL.—Chapter 117 of such title is amended by adding at the end the following new sections:

''§ 2425. Criminal forfeiture

''(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under section 2422(b) or section 2423 shall forfeit to the United States such person's interest in—

''(1) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

''(2) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

''(b) THIRD PARTY TRANSFERS.—(1) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section.

''(2) Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States unless the transferee establishes in a hearing pursuant to subsection (m) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

''(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

''(A) upon the filing of an indictment or information charging a violation of section 2422(b) or 2423 for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

''(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

''(i) there is a substantial probability that—

''(I) the United States will prevail on the issue of forfeiture; and

''(II) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

''(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

''(2) An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days unless extended by the court for good cause shown or unless an indictment or information described in paragraph (1)(A) has been filed.

''(3)(A) A restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property if the United States demonstrates that there is probable cause to believe that—

''(i) the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; and

''(ii) the provision of notice will jeopardize the availability of the property for forfeiture.

''(B) A restraining order under this paragraph shall expire not more than 10 days after the date on which it is entered unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the order.

''(4) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

''(d) WARRANT OF SEIZURE.—(1) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant.

''(2) If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

''(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

''(f) EXECUTION.—(1) Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such

terms and conditions as the court considers proper.

''(2) Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited.

''(3) Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

''(g) DISPOSITION OF PROPERTY.—(1) Following the seizure of property ordered forfeited under this section, the Attorney General shall retain such property for official use or direct the disposition of such property described by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States.

''(2) Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

''(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General may—

''(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of section 2422(b) or 2423, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

''(2) compromise claims arising under this section;

''(3) award compensation to persons providing information resulting in a forfeiture under this section;

''(4) direct the disposition by the United States, under section 616 of the Tariff Act of 1930, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

''(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

''(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 2426 shall apply to a criminal forfeiture under this section.

''(j) BAR ON INTERVENTION.—Except as provided in subsection (m), no party claiming an interest in property subject to forfeiture under this section may—

''(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

''(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

''(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

''(*l*) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.

''(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

''(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

''(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

''(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

''(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

''(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

''(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

''(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

''(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

''(n) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

''(1) cannot be located upon the exercise of due diligence;

''(2) has been transferred or sold to, or deposited with, a third party;

''(3) has been placed beyond the jurisdiction of the court;

''(4) has been substantially diminished in value; or

''(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

''(*o*) CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

''§ 2426. Civil forfeiture

''(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

''(1) Any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under section 2422(b) or 2423, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

''(2) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of section 2422(b) or 2423, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

''(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General, the Secretary of the Treasury, or the United States Postal Service upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant or incident to an arrest. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

''(c) CUSTODY OF FEDERAL OFFICIAL.—Property taken or detained under this section

shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, Secretary of the Treasury, or the United States Postal Service subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General, Secretary of the Treasury, or the United States Postal Service may—

''(1) place the property under seal;

''(2) remove the property to a place designated by the official or agency; or

''(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

''(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, except to the extent that such duties arise from seizures and forfeitures affected by any customs officer.

''(e) DISPOSITION OF FORFEITED PROPERTY.—(1) Whenever property is forfeited under this section the Attorney General may—

''(A) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency under section 616 of the Tariff Act of 1930;

''(B) sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

''(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

''(2)(A) The Attorney General, Secretary of the Treasury, or the United States Postal Service shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by an official or agency pursuant to paragraph (1)(A) shall not be subject to judicial review.

''(B) With respect to a forfeiture conducted by the Attorney General, the Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (1)(B) and any moneys forfeited under this section.

''(C) With respect to a forfeiture conducted by the Postal Service, the proceeds from any sale under paragraph (1)(B) and any moneys forfeited under this section shall be deposited in the Postal Service Fund as required by section 2003(b)(7) of title 39.

''(f) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

''(g) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of section 2422(b) or 2423 which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

''(h) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Criminal forfeiture.

''2426. Civil forfeiture.''.

(b) RELEASE AND DETENTION FOR COERCION AND ENTICEMENT AND TRANSPORTATION OF MINORS FOR SEXUAL PURPOSES.—Section 3156(a)(4)(C) of such title is amended by striking ''chapter 109A or chapter 110'' and inserting ''chapter 109A or 110 or section 2422(b) or 2423''.●

By Mr. GRASSLEY:

S. 2650. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Labor and Human Resources.

GIFTED AND TALENTED STUDENTS EDUCATION ACT OF 1998

● Mr. GRASSLEY. Mr. President, I am introducing the Gifted and Talented Students Education Act of 1998. This legislation would provide block grants to the states to provide educational programs that focus on and are tailored to the needs of gifted and talented students.

The needs of gifted and talented students are often misunderstood. Too often we believe that all we need to do for gifted and talented students is to put them on an accelerated course of study. However, that is not sufficient. Gifted and talented students think and look at the world in a unique way. Therefore, their educational agenda must be tailored to the thought processes gifted and talented students employ. Currently, our nation's education system does not do so. This is due in part, to a lack of resources available in schools across the country.

My legislation, which has been offered in the House of Representatives by Congressman ELTON GALLEGLY of California would provide block grants to state education agencies to identify gifted and talented students from all economic, ethnic and racial backgrounds—including students of limited English proficiency and those with disabilities. Funding would be based on each state's student population, but each state would receive at least $1 million.

This legislation would leave the decision on how best to serve these students to state and local officials. I have always believed that state and local officials, working with parents, are in a much better position than bureaucrats in Washington to know what their students need to succeed. I have also always believed that the most effective education spending is that which goes directly to the students. That's why this bill caps administrative costs at 10 percent.

So while the funds in this measure can't be used for bureaucracy, it can be used for items such as professional development for teachers; counselors and administrators; innovation of programs and services for high-ability students and for developing emerging technologies such as distance learning and other initiatives. It is my hope this measure will give educators the resources and the flexibility they need to meet the needs of gifted and talented students.

Mr. President, our nation's gifted and talented are among our great untapped resources. We must focus on the needs of these students so that their particular gifts can flourish and be fully realized. I am aware Mr. President that at this late date, this measure will not pass. However, I hope introduction of this bill will help shed some light on the needs of the gifted and talented and force a much-needed national conversation about the tremendous potential that we are allowing to go undeveloped. While this measure will obviously not receive any further action before the end of the 105th Congress, it is my sincere hope that introduction of this bill will be the beginning of a new era in educating the gifted and talented.●

By Mr. LEAHY:

S. 2652. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the safety of exported pesticides, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CIRCLE OF POISON PREVENTION ACT OF 1998

● Mr. LEAHY. Mr. President, I first introduced this legislation over six years ago after the General Accounting Office concluded that U.S. policy to ensure imported food safety is inadequate and in need of reform. Changes have taken place since, but our policy of allowing pesticides that are prohibited for use within the United States be exported to other countries remains.

The United States should be proud of the strict regulations that we have on the production and use of pesticides. But we should be embarrassed that the loophole in current law allowing U.S. chemical companies to export dangerous pesticides—pesticides banned in the U.S.—has not been eliminated. This loophole must be eliminated to protect the American consumer and American farmer and to halt the immoral practice of sending dangerous pesticides overseas to be handled and applied by unsuspecting farmworkers.

My ''Circle of Poison'' bill is designed to protect the public from pesticide residues on imported food. It is unreasonable to expect that, in these times

of tight budgets and limited resources, the Food and Drug Administration (FDA) will be able to monitor each shipment of imported food for each pesticide that a foreign farmer may use. FDA import inspections have declined dramatically in just the last four years, so that now less than two percent of FDA-regulated imported food is subject to any type of inspection.

It is possible, however, to aid FDA by limiting the number of dangerous pesticides which U.S. chemical companies supply to foreign farmers. By banning the export of pesticides which EPA has not deemed safe, the ''circle of poison'' legislation will reduce the availability of some of the most hazardous pesticides. By curtailing the supply, it is less likely that foreign farmers will use these pesticides, and therefore, less likely that these pesticides will end up on food that Americans consume.

In addition, this bill puts American farmers on an equal footing with foreign farmers. Under the bill, if a pesticide is not legal for American farmers to use, it will not be legal for foreign farmers to use on food that is exported to the U.S. A simple and reasonable concept, but a concept which is not yet in place in the real world.

Finally, it is simply wrong to allow the export of illegal pesticides. If the Environmental Protection Agency does not allow our citizens and environment to be exposed to a pesticide, we should not subject other countries to the hazards of the pesticide. A pesticide that may endanger people and the environment in the U.S. does not diminish in toxicity simply because it has been exported.●

ADDITIONAL COSPONSORS

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Louisiana [Ms. LANDRIEU) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 2121

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2121, a bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes.

S. 2180

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2356

At the request of Mr. ROBERTS, the name of the Senator from Kentucky [Mr. MCCONNELL) was added as a cosponsor of S. 2356, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 2576

At the request of Ms. SNOWE, the name of the Senator from Utah [Mr. HATCH) was added as a cosponsor of S. 2576, a bill to create a National Museum of Women's History Advisory Committee.

S. 2616

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SANTORUM) was added as a cosponsor of 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.

SENATE CONCURRENT RESOLUTION 128

At the request of Mr. LEAHY, the names of the Senator from South Dakota [Mr. DASCHLE), the Senator from New Jersey [Mr. TORRICELLI), and the Senator from Pennsylvania [Mr. SPECTER) were added as cosponsors of Senate Concurrent Resolution 128, a concurrent resolution expressing the sense of Congress regarding measures to achieve a peaceful resolution of the conflict in the state of Chiapas, Mexico, and for other purposes.

SENATE RESOLUTION 312—TO AMEND SENATE RESOLUTION 209 IN ORDER TO PROVIDE BUDGET LEVELS FOR FISCAL YEAR 1999

Mr. DOMENICI submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 312

Resolved, That Senate Resolution 209, agreed to April 2, 1999 (105th Congress), is amended by striking all after the resolving clause and inserting the following:

SECTION 1. SENATE BUDGET LEVELS.

(a) IN GENERAL.—For the purpose of enforcing the Congressional Budget Act of 1974 and section 202 of House Concurrent Resolution 67 (104th Congress), the following levels, amounts, and allocations shall apply in the Senate in the same manner as a concurrent resolution on the budget for fiscal year 1999 and including the appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—The recommended levels of Federal revenues are as follows:

Fiscal year 1999: $1,358,919,000,000.
Fiscal year 2000: $1,388,039,000,000.
Fiscal year 2001: $1,424,774,000,000.
Fiscal year 2002: $1,480,891,000,000.
Fiscal year 2003: $1,534,362,000,000.

(2) NEW BUDGET AUTHORITY.—The appropriate levels of new budget authority are as follows:

Fiscal year 1999: $1,417,136,000,000.
Fiscal year 2000: $1,453,654,000,000.
Fiscal year 2001: $1,489,637,000,000.
Fiscal year 2002: $1,517,259,000,000.
Fiscal year 2003: $1,577,949,000,000.

(3) BUDGET OUTLAYS.—The appropriate levels of total budget outlays are as follows:

Fiscal year 1999: $1,402,185,000,000.
Fiscal year 2000: $1,438,029,000,000.
Fiscal year 2001: $1,473,660,000,000.
Fiscal year 2002: $1,484,272,000,000.
Fiscal year 2003: $1,548,914,000,000.

(4) SOCIAL SECURITY REVENUES.—The amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: $441,749,000,000.
Fiscal year 2000: $460,115,000,000.
Fiscal year 2001: $477,722,000,000.
Fiscal year 2002: $497,290,000,000.
Fiscal year 2003: $518,752,000,000.

(5) SOCIAL SECURITY OUTLAYS.—The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: $321,261,000,000.
Fiscal year 2000: $330,916,000,000.
Fiscal year 2001: $344,041,000,000.
Fiscal year 2002: $355,614,000,000.
Fiscal year 2003: $368,890,000,000.

(b) REVISIONS.—

(1) IN GENERAL.—The Chairman of the Senate Committee on the Budget may file 1 set of revisions to the levels, amounts, and allocations provided by this resolution and those revisions shall only reflect legislation enacted in the 105th Congress and not assumed in this resolution.

(2) CONGRESSIONAL PAY-GO SCORECARD.—Upon making revisions pursuant to paragraph (1) and for the purpose of enforcing section 202 of House Concurrent Resolution 67 (104th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and receipts for any fiscal year to zero.

(c) EFFECTIVE DATE AND EXPIRATION.—This resolution shall—

(1) take effect on the date that the Congress adjourns sine die or the date the 105th Congress expires, whichever date is earlier; and

(2) expire on the effective date of a concurrent resolution on the budget for fiscal year 1999 agreed to pursuant to section 301 of the Congressional Budget Act of 1974.

SEC. 2. COMMITTEE ALLOCATIONS.

Upon the adoption of this resolution, the Chairman of the Committee on the Budget shall file allocations consistent with this resolution pursuant to section 302(a) of the Congressional Budget Act of 1974.

SENATE RESOLUTION 313—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO THE BRUTAL KILLING OF MR. MATTHEW SHEPARD

Mr. THOMAS (for himself and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 313

Whereas Mr. Matthew Shepard, a 21-year old student at the University of Wyoming in Laramie, Wyoming, was physically beaten and tortured, tied to a wooden fence and left for dead; and

Whereas Mr. Matthew Shepard died as a result of his injuries on October 12, 1998, in a Colorado hospital, surrounded by his loving family and friends; Now, therefore, be it

Resolved by the Senate, That it is the Sense of the Senate that it—

(1) condemns the actions which occurred in Laramie, Wyoming, as unacceptable and outrageous;

(2) urges each member of Congress and every citizen of the United States, in his or her own way, through his or her church, synagogue, mosque, workplace, or social organization, to join in denouncing and encouraging others to denounce this outrageous murder of another human being;

(3) pledges to join in efforts to bring an end to such crimes, and to encourage all Americans to dedicate themselves to ending violence in the United States; and

(4) pledges to do everything in its power to fight prejudice and intolerance that leads to the murder of innocent people.

SENATE RESOLUTION 314—EXPRESSING THE SENSE OF THE SENATE REGARDING SKILLED NURSING FACILITIES

Mr. HATCH submitted the following resolution; which was refered to the Committe on Finance:

S. RES. 314

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING AUTHORITY OF SECRETARY, COLLECTION OF DATA, AND REPORT TO CONGRESS.

(a) AUTHORITY.—It is the sense of the Senate that the Secretary of Health and Human Services, in making payments under the prospective payment system for skilled nursing facilities pursuant to section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), has the authority under section 1888(e)(4)(G)(i) of such Act to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring the provision of non-therapy ancillary services (such as respiratory therapy, pharmacy, laboratory, X-ray, and parenteral and enteral services, and covered durable medical supplies).

(b) DATA.—It is the sense of the Senate that the Secretary of Health and Human Services should gather sufficient data on the provision of non-therapy ancillary services by skilled nursing facilities that are paid under the prospective payment system pursuant to section 1888(e) of the Social Security Act in order to develop the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of such Act.

(c) REPORT TO CONGRESS.—It is the sense of the Senate that the Secretary of Health and Human Services should periodically report to Congress on the development of the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of the Social Security Act which reflects a patient's medical needs requiring the provision of non-therapy ancillary services.

Mr. HATCH. Mr. President, today I introduce S. Res. 314 which expresses the sense of the Senate regarding the authority of the Secretary of Health and Human Services to make adjustments in payments made to skilled nursing facilities under the Medicare program.

As my colleagues are aware, pursuant to the Balanced Budget Act of 1997, Congress directed the Health Care Financing Administration to create a new prospective payment system, or PPS, for Medicare-certified skilled nursing facilities, or SNFs, as they are called.

Skilled nursing facilities are now in the process of moving from the historical cost-based reimbursement system to the new prospective payment system.

This new system combines costs associated with nursing services, capital investment, and other medical services bundled together and then adjusted to reflect the needs of the patients.

Congress rightly sought this new system as a way of getting skilled nursing facility operators to manage both the quality and costs of health care for seniors qualified under Medicare.

As this system has been developed quickly since the enactment of the BBA, there has been a problem identified with adjustments for services considered ''non-therapy'' services.

These include respiratory therapy, pharmaceutical products, parenteral and enteral products, laboratory and x-ray services, and other covered medical supplies.

While I believe that HCFA has done a remarkable job in getting this system in place over the past year, I am concerned that the adjustment in payment for these specific services has not yet been developed.

This is especially true for a patient who is very ill—those with multiple disease conditions treated in a SNF. There is simply not adequate provisions for ensuring that the prospective payment made each day appropriately reflects the higher medical costs that these patients may need.

As a result of this new system, many nursing homes cannot afford to treat certain types of patients. That was never our intent.

HCFA officials have acknowledged that they needed more data to fix the problem. They commissioned a study last year to assist them to make corrections.

However, the data was not yet available in time for the first year to implement some corrections. While I am certain that HCFA will correct this system, I want to ensure that services to our most vulnerable seniors in nursing homes getting complex medical services will continue to get their care.

I do not want bureaucratic delays in any way to impede their care.

The PPS theory of paying according to average does not work when the rates are not based on solid data and the case-mix adjustment for non-therapy ancillaries is based on very little data. This is obviously not what Congress intended with the BBA.

In March, the Medicare Payment Assessment Commission advised the Congress that ''the RUG-III system may not adequately differentiate among Medicare SNF patients . . . this may lead to significant overpayment and under payment for patients within a RUG group.''

In September, the Appropriations Committee report for the Department of Health and Human Services included the following:

> The Committee has heard concerns regarding the equity of the new Medicare SNF prospective payment system as it relates to nontherapy ancillaries. The demonstration upon which the new system was based did not include this class of items and services. Due to the lack of sufficient data to make these changes, the new system may provide a windfall for some providers while seriously impairing the ability of others to treat patients requiring more intensive care. Therefore, the Committee urges HCFA to reexamine this policy and make budget-neutral changes this year to assure continued access to services for high cost patients pending the gathering of sufficient data on which to base permanent reforms.

Mr. President, unless relief is provided and this anomaly in the payment system is corrected, a major impediment will remain for certain patients with high non-therapy ancillary costs to receive Medicare services in nursing facilities.

An immediate transitional modification is needed before irreparable harm is done to quality care and access for high costs patients. Some facilities have already begun PPS coverage although HCFA apparently will not begin making actual PPS payments until December, or later. However, on January 1 about 60 percent of the SNFs will begin coverage under the PPS.

We must, therefore, develop longer term solutions for these crucial services, but first we must do no harm in the interim.

Providers can quickly change operations to maximize light care and minimize heavy care. Specialty staff, such as respiratory therapists, will be let go; special physical plant and equipment, such as air flow equipment for ''clean room'' level infection control will be dismantled; and hospital referral arrangements will be changed.

Accordingly, I am submitting today S. Res. 314 expressing the sense of the Senate that the Secretary, pursuant to section 1888(e)(4)(G)(i), has the authority to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring non-therapy ancillary services.

HCFA has acknowledged the shortcomings of the current RUG-III system. The RUG-III demonstration project had treated these costs as a pass-through because the system did not have the data available to include such costs.

My resolution will clarify and reaffirm Congressional intent that the Secretary has the administrative flexibility to make appropriate adjustments to the case-mix of SNFs to reflect the costs of these services.

One approach, which accommodates HCFA's operational impediment of Year 2000 computer software problems, would be to make payment adjustments to reflect the relative resource utilization of non-therapy ancillaries by different patient types based on a SNF's cost report for the first year under the PPS.

The resolution calls upon the Secretary to gather sufficient data on the provisions of non-therapy ancillaries in order to develop the appropriate adjustments. And, it also urges the Secretary to periodically report to Congress on the development of the appropriate adjustment.

Mr. President, this issue is one of quality and access for America's seniors to community based skilled care.

And, while it was my hope that the Senate could pass this resolution today, I trust my remarks and the language of the resolution will serve to further define the complex issues associated with this important matter.

I am encouraged that the distinguished Chairman of the Finance Committee, Senator ROTH, and the distinguished Minority Member, Senator

MOYNIHAN, have indicated their interest, and look forward to working with them early next year to address this issue in the Finance Committee.

AMENDMENTS SUBMITTED

RELATIVE TO THE ELECTIONS TO BE HELD IN GABON IN DECEMBER 1998

LUGAR AMENDMENT NO. 3834

Mr. LOTT (for Mr. LUGAR) proposed an amendment to the resolution (S. Res. 285) expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon in December of 1998 are free and fair; as follows:

Strike all after the resolving clause and insert the following:

That the Senate—

(1) recognizes and commends those Gabonese who have demonstrated their love for free and fair elections;

(2) commends the Government of Gabon for inviting the International Foundation for Election Systems to perform a pre-election assessment study;

(3) calls on the Government of Gabon to—

(A) take further measures to ensure the organization and administration of a transparent and credible election and to ensure that the national election commission is able to independently carry out its duties; and

(B) further welcome the International Foundation for Election Systems, the National Democratic Institute, the International Republican Institute, and other appropriate national and international nongovernmental organizations to aid the organization of, and to monitor, the December 1998 Presidential election in Gabon, in an effort to assist the government in ensuring that the elections are free and fair;

(4) urges the United States Government to continue to work with the international community, and through appropriate nongovernmental organizations, to help create an environment which guarantees free and fair elections; and

(5) urges the United States Government and the international community to continue to encourage and support the institutionalization of democratic processes and the establishment of conditions for good governance in Gabon.

Strike the preamble and insert the following:

Whereas Gabon is a heavily forested and oil-rich country on the west coast of Central Africa;

Whereas Gabon gained independence from France in 1960;

Whereas Gabon is scheduled to hold national elections in December 1998 for the purpose of electing a President;

Whereas the Government of Gabon was subject to single-party rule until 1990 and only one person has held the office of the President since 1967;

Whereas the International Foundation for Election Systems (IFES) and the African American Institute (AAI) served as observers during the organization of the 1993 Presidential and legislative elections in Gabon and found widespread electoral irregularities;

Whereas the Government of Gabon is a signatory to the Paris Accords of 1994, which was approved by national referendum in July 1995, and was instituted to provide for a state of law guaranteeing basic individual freedoms and the organization of free and fair elections under a new independent national election commission;

Whereas the people of Gabon have demonstrated their support for the democratic process through the formation of numerous political parties since 1990 and their strong participation in prior elections; and

Whereas it is in the interest of the United States to promote political and economic freedom in Africa and throughout the world: Now, therefore, be it

Amend the title to read as follows: ''Expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon are free and fair.''.

RELATIVE TO THE HUMAN RIGHTS ABUSES AGAINST THE CIVILIAN POPULATION OF SIERRA LEONE

ABRAHAM AMENDMENT NO. 3835

Mr. LOTT (for Mr. ABRAHAM) proposed an amendment to the resolution (S. Res. 298) condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone; as follows:

Whereas the ousted Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front (RUF) have mounted a campaign of terror, vengeance, and human rights abuses on the civilian population of Sierra Leone;

Whereas the AFRC and RUF violence against civilians continues with more than 500 survivors of atrocities, including gunshot wounds, amputations or rape;

Whereas the International Committee of the Red Cross estimates that only 1 in 4 victims of mutilation actually makes it to medical help;

Whereas the use and recruitment of children as combatants in this conflict has been widespread, including forcible abduction of children by AFRC and RUF rebels;

Whereas UNICEF estimates the number of children forcibly abducted since March 1998 exceeds 3,000;

Whereas the consequences of this campaign have been the flight of more than 250,000 refugees to Guinea and Liberia in the last 6 months and the increase of over 250,000 displaced Sierra Leoneans in camps and towns in the north and east;

Whereas the Governments of Guinea and Liberia are having great difficulty caring for the huge number of refugees, now totaling 600,000 in Guinea and Liberia, and emergency appeals have been issued by the United Nations High Commission for Refugees for $7,300,000 for emergency food, shelter, and sanitation, and medical, educational, psychological, and social services;

Whereas starvation and hunger-related deaths have begun in the north where more than 500 people have died since August 1, 1998, a situation that will only get worse in the next months;

Whereas the humanitarian community is unable, because of continuing security concerns, to deliver food and medicine to the vulnerable groups within the north and east of Sierra Leone;

Whereas the Economic Community of West African States and its peacekeeping arm, the Economic Community of West African States Military Observer Group (ECOMOG), are doing their best, but are still lacking in the logistic support needed to either bring this AFRC and RUF rebel war to a conclusion or force a negotiated settlement;

Whereas arms and weapons continue to be supplied to the AFRC and RUF in direct violation of a United Nations arms embargo;

Whereas the United Nations Under Secretary for Humanitarian Affairs and Emergency Relief Coordinator, Amnesty International, Human Rights Watch, and Refugees International, following visits to Sierra Leone in May and June 1998, condemned, in the strongest terms, the terrible human rights violations done to civilians by the AFRC and RUF rebels; and

Whereas the Special Representative of the United Nations Secretary General for Children and Armed Conflict, following a May 1998 visit to Sierra Leone, called upon the United Nations to make Sierra Leone one of the pilot projects for the rehabilitation of child combatants: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to solving the conflict in Sierra Leone and to bring stability to West Africa in general;

(2) condemns the use by all parties of children as combatants, in particular their forcible abduction by the Armed Forces Revolutionary Council and the Revolutionary United Front, in the conflict in Sierra Leone;

(3) calls on rebel forces to permit the establishment of a secure humanitarian corridor to strategic areas in the north and east of Sierra Leone for the safe delivery of food and medicines by the Government of Sierra Leone and humanitarian agencies already in the country mandated to deliver this aid;

(4) urges the President and the Secretary of State to continue to strictly enforce the United Nations arms embargo on the Armed Forces Revolutionary Council and Revolutionary United Front, including the condemnation of other nations found to be not in compliance with the embargo;

(5) urges the President and the Secretary of State to continue to encourage the contribution of peacekeeping forces by member governments of the Economic Community of West African states to its peacekeeping arm, ECOMOG;

(6) urges the President and the Secretary of State to continue to support the appeal of the United Nations High Commission for Refugees for aid to Sierra Leonean refugees in Guinea, Liberia, and elsewhere, as well as other United Nations agencies and nongovernmental organizations working in Sierra Leone to bring humanitarian relief and peace to the country, including support the United Nations Observer Mission in Sierra Leone;

(7) urges the President and the Secretary of State to take a more comprehensive and focused approach to its relief, recovery and development assistance program in Sierra Leone and to continue to support the Government of Sierra Leone in its Disarmament, Demobilization and Reintegration Program (DDRP) for the country as peace becomes a reality;

(8) urges the President and Secretary of State to work with the Government of Sierra Leone, with organization of civil society and with ECOMOG in their efforts to promote and protect human rights, including respect for international humanitarian law;

(9) encourages and supports the United Nations Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunu, to continue efforts to work in Sierra Leone to establish programs designed to rehabilitate child combatants; and

(10) urges all parties to make a concerted effort toward peace and reconciliation in Sierra Leone.

FEDERAL REPORTS ELIMINATION ACT OF 1998

MCCAIN AMENDMENT NO. 3836

Mr. LOTT (for Mr. MCCAIN) proposed an amendment to the bill (S. 1364) to eliminate unnecessary and wasteful Federal reports; as follows:

In section 1501, strike subsections (f) through (h).

CHILD CUSTODY LEGISLATION

HATCH (AND BIDEN) AMENDMENT NO. 3837

Mr. LOTT (for Mr. HATCH for himself and Mr. BIDEN) proposed an amendment to the bill (H.R. 4164) to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CHILD CUSTODY.

(a) SECTION 1738A(a).—Section 1738A(a) of title 28, United States Code, is amended by striking ''subsection (f) of this section, any child custody determination'' and inserting ''subsections (f), (g), and (h) of this section, any custody determination or visitation determination''.

(b) SECTION 1738A(b)(2).—Section 1738A(b)(2) of title 28, United States Code, is amended by inserting ''or grandparent'' after ''parent''.

(c) SECTION 1738A(b)(3).—Section 1738A(b)(3) of title 28, United States Code, is amended by striking ''or visitation'' after ''for the custody''.

(d) SECTION 1738A(b)(5).—Section 1738A(b)(5) of title 28, United States Code, is amended by striking ''custody determination'' each place it occurs and inserting ''custody or visitation determination''.

(e) SECTION 1738A(b)(9).—Section 1738A(b) of title 28, United States Code, is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding after paragraph (8) the following:

''(9) 'visitation determination' means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.''.

(f) SECTION 1738A(c).—Section 1738A(c) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(g) SECTION 1738A(c)(2)(D).—Section 1738A(c)(2)(D) of title 28, United States Code, is amended by adding ''or visitation'' after ''determine the custody''.

(h) SECTION 1738A(d).—Section 1738A(d) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(i) SECTION 1738A(e).—Section 1738A(e) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(j) SECTION 1738A(g).—Section 1738A(g) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(k) SECTION 1738A(h).—Section 1738A of title 28, United States Code, is amended by adding at the end the following:

''(h) A court of a State may not modify a visitation determination made by a court of another State unless the court of the other State no longer has jurisdiction to modify such determination or has declined to exercise jurisdiction to modify such determination.''.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

HATCH (AND LEAHY) AMENDMENT NO. 3838

Mr. LOTT (for Mr. HATCH for himself and Mr. LEAHY) proposed an amendment to the bill (H.R. 2440) to make technical amendments to section 10 of title 9, United States Code; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) FINDINGS.—Section 402 of the Missing Children's Assistance Act (42 U.S.C. 5771) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) for 14 years, the National Center for Missing and Exploited Children has—

''(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

''(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization;

''(10) Congress has given the Center, which is a private non-profit corporation, access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System;

''(11) since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming 'the 911 for the Internet';

''(12) in light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ('CA') flag to provide the Center immediate notification in the most serious cases, resulting in 642 'CA' notifications to the Center and helping the Center to have its highest recovery rate in history;

''(13) the Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly;

''(14) from its inception in 1984 through March 31, 1998, the Center has—

''(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

''(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

''(C) disseminated 15,491,344 free publications to citizens and professionals; and

''(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children;

''(15) the demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 'hits' every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children;

''(16) in 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center;

''(17) the programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent;

''(18) the Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States;

''(19) the Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children;

''(20) the Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy; and

''(21) the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.''.

(b) DEFINITIONS.—Section 403 of the Missing Children's Assistance Act (42 U.S.C. 5772) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the term 'Center' means the National Center for Missing and Exploited Children.''.

(c) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—Section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking subsection (b) and inserting the following:

''(b) ANNUAL GRANT TO NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—

''(1) IN GENERAL.—The Administrator shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

''(A)(i) operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

''(ii) coordinate the operation of such telephone line with the operation of the national communications system referred to in part C of the Runaway and Homeless Youth Act (42 U.S.C. 5714–11);

''(B) operate the official national resource center and information clearinghouse for missing and exploited children;

''(C) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

''(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

''(ii) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

''(D) coordinate public and private programs that locate, recover, or reunite missing children with their families;

''(E) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

''(F) provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

''(G) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection, $8,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

''(c) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

''(1) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnapings, and the number of children who are recovered each year; and

''(2) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.''.

(d) NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—Section 405(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended by inserting ''the National Center for Missing and Exploited Children and with'' before ''public agencies'',

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by striking ''1997 through 2001'' and inserting ''1999 through 2003''.

(f) REPEAL OF OBSOLETE REPORTING REQUIREMENTS.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.

EXEMPTION FROM FEDERAL TAXATION OF REWARD PAID IN UNABOMBER CASE

MOYNIHAN AMENDMENT NO. 3839

Mr. LOTT (for Mr. MOYNIHAN) proposed an amendment to the bill (H.R. 2513) to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EXEMPTION FROM FEDERAL TAXATION OF REWARD PAID IN UNABOMBER CASE IF USED TO COMPENSATE VICTIMS AND THEIR FAMILIES OR TO PAY CERTAIN ATTORNEYS' FEES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, if the requirements of subsection (b) are met with respect to the amounts received by David R. Kaczynski of Schenectady, New York, and his wife, Linda E. Patrik, from the United States as a reward for information leading to the arrest of Theodore J. Kaczynski in the ''Unabomber'' case, then—

(1) their gross income shall not include (and no deduction shall be allowed to them with respect to) such amounts; and

(2) any payment by them to victims and their families in such case shall not be treated as a gift for purposes of subtitle B of such Code and shall not be included in gross income of the recipients.

(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if all of the amounts described in subsection (a) are used only for the following purposes:

(1) Payment by Mr. David R. Kaczynski and Ms. Linda E. Patrik before September 15, 1998, to their attorneys for attorneys' fees incurred by them in connection with the ''Unabomber'' case.

(2) Payment by Mr. David R. Kaczynski and Ms. Linda E. Patrik of State and local taxes on such amounts.

(3) Payment of all remaining amounts by Mr. David R. Kaczynski and Ms. Linda E. Patrik no later than 1 year after the date of the enactment of this Act to the victims and their families in the ''Unabomber'' case or to an irrevocable trust established exclusively for the benefit of such victims and their families.

(c) VICTIMS AND THEIR FAMILIES.—For purposes of this section, the Attorney General of the United States or her delegate shall identify the individuals who are to be treated as victims and their families in the ''Unabomber'' case.

''A bill to provide tax-free treatment of reward monies donated to the victims of ''Unabomber'' Theodore Kaczynski.''

TREATY WITH LATVIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

HELMS EXECUTIVE AMENDMENTS NO. 3840

Mr. DEWINE (for Mr. HELMS) proposed an executive amendment to the Treaty with Latvia on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 105–34); as follows:

On lines 5 and 6 of the Resolution of Ratification of the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105–22), strike ''and an exchange of notes signed on the same date''.

TREATY WITH ISRAEL ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

HELMS EXECUTIVE AMENDMENT NO. 3841

Mr. DEWINE (for Mr. HELMS) proposed an executive amendment to the Treaty with Israel on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 105–40); as follows:

On line 5 of the Resolution of Ratification of the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105–22), strike ''Tel Aviv'' and insert ''Jerusalem''.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

MURKOWSKI (AND BUMPERS) AMENDMENT NO. 3842

Mr. DEWINE (for Mr. MURKOWSKI for himself and Mr. BUMPERS) proposed an amendment to the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; as follows:

Concur in the House amendment with the following amendments:

1. Strike title IV and insert in lieu thereof the following:

TITLE IV—SLY PARK DAM AND RESERVOIR, CALIFORNIA

SEC. 401. SHORT TITLE.

This title may be cited as the ''Sly Park Unit Conveyance Act''.

SEC. 402. DEFINITIONS.

For purposes of this title:

(1) The term ''District'' means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Project'' means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals held by the United States pursuant to or related to the authorization in the Act entitled

''An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes'', approved October 14, 1949 (63 Stat. 852 chapter 690), which are associated with the Sly Park Dam and Reservoir.

SEC. 403. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligations under contract numbered 14–06–200–949IR2, the Secretary is authorized to convey all right, title and interest in and to the Project to the District. Such transfer shall be subject to a reversion in favor of the United States if the remaining repayment obligations to the United States, referred to in Section 405(a), are not completed. The net present value shall be determined under Office of Management and Budget Circular A–129 (in effect on the date of enactment of this title).

(b) CONVEYANCE.—The Secretary shall complete the conveyance as expeditiously as possible. If the conveyance has not occurred within one year from the date of enactment of this title, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives on the status of the transfer, any obstacles to completion of the transfer, and the anticipated date for such transfer. If the Project is conveyed within two years from the date of enactment of this title, the costs of administrative action, including, but not limited to, any environmental compliance, shall be borne equally be the Secretary and the District. If the Project is not conveyed within such two year period, the Secretary shall assume all costs.

SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing is this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 405).

SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) PAYMENT OBLIGATIONS NOT AFFECTED.—The conveyance of the Project under this title does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14–06–200–7734, as amended by contracts numbered 14–06–200–4282A and 14–06–200–8536A. At any time, the District may elect to prepay its remaining repayment obligations under contract numbered 14–06–200–7734, as amended by contracts numbered 14–06–200–4282A and 14–06–200–8536A, by tendering to the Secretary the net present value, at that time, of the remaining repayment obligation as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this title). Effective on the date of such tender, or on the date of completion of all repayment obligations, whichever occurs first, any reversionary interest of the United States in and to the Project is extinguished.

(b) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the District in accordance with section 403(b) shall extinguish all payment obligations under contract numbered 14–06–200–9491R2 between the District and the Secretary.

SEC. 406. RELATIONSHIP TO OTHER LAWS.

(a) RECLAMATION LAWS.—Except as provided in subsection (b), upon enactment of this title the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) PAYMENTS INTO THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this title. The District obligation shall be calculated in the same manner as Central Valley Project water contractors.

SEC. 407. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under the title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

2. At the end thereof, add the following new titles:

TITLE VIII—CARLSBAD IRRIGATION PROJECT TITLE CONVEYANCE

SEC. 801. SHORT TITLE.

This title may be cited as the ''Carlsbad Irrigation Project Acquired Land Transfer Act''.

SEC. 802. CONVEYANCE.

(a) LANDS AND FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to subsection (c), the Secretary of the Interior (in this title referred to as the ''Secretary'') may convey to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and in this title referred to as the ''District''), all right, title, and interest of the United States in and to the lands described in subsection (b) (in this title referred to as the ''acquired lands'') and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

(2) LIMITATION.—

(A) RETAINED SURFACE RIGHTS.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir division structure.

(B) STORAGE AND FLOW EASEMENT.—The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands and in section (7) of the ''Status of Lands and Title Report: Carlsbad Project'' as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this title shall be subject to the following terms and conditions:

(1) MANAGEMENT AND USE, GENERALLY.—The conveyed lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, based on historic operations and consistent with the management of other adjacent project lands.

(2) ASSUMED RIGHTS AND OBLIGATIONS.—Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes; and

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—In relation to agreements referred to in paragraph (2)—

(A) the District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement; and

(B) the District shall not be entitled to any receipts for revenues generated as a result of either agreement.

(d) COMPLETION OF CONVEYANCE.—If the Secretary does not complete the conveyance within 180 days from the date of enactment of this title, the Secretary shall submit a report to the Congress within 30 days after that period that includes a detailed explanation of problems that have been encountered in completing the conveyance, and specific steps that the Secretary has taken or will take to complete the conveyance.

SEC. 803. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this title, the Secretary of the Interior shall—

(1) provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this title; and

(2) notify all leaseholders of the conveyance authorized by this title.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the acquired lands conveyed under section 802, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement of the Summer Dam which, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance which shall be funded through the cost share formulas in place at the time of conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—

(1) EXISTING RECEIPTS.—Receipts in the reclamation fund on the date of enactment of this title which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) shall be deposited in the General Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) RECEIPTS AFTER ENACTMENT.—Of the receipts from mineral and grazing leases, licenses, and permits on acquired lands to be conveyed under section 802, that are received by the United States after the date of enactment and before the date of conveyance—

(A) not to exceed $200,000 shall be available to the Secretary for the actual costs of implementing this title with any additional costs shared equally between the Secretary and the District; and

(B) the remainder shall be deposited into the General Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 804. VOLUNTARY WATER CONSERVATION PRACTICES.

Nothing in this title shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 805. LIABILITY.

Effective on the date of conveyance of any lands and facilities authorized by this title, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors, prior to conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that provided under chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 806. FUTURE BENEFITS.

Effective upon transfer, the lands and facilities transferred pursuant to this title shall not be entitled to receive any further Reclamation benefits pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereof or amendatory thereto attributable to their status as part of a Reclamation Project.

TITLE IX—THOMAS COLE NATIONAL HISTORIC SITE

SEC. 901. SHORT TITLE.

This title may be cited as the ''Thomas Cole National Historic Site Act''.

SEC. 902. DEFINITIONS.

As used in this title:

(1) The term ''historic site'' means the Thomas Cole National Historic Site established by section 904 of this title.

(2) The term ''Hudson River artists'' means artists who were associated with the Hudson River school of landscape painting.

(3) The term ''plan'' means the general management plan developed pursuant to section 906(d).

(4) The term ''Secretary'' means the Secretary of the Interior.

(5) The term ''Society'' means the Greene County Historical Society of Greene County, New York, which owns the Thomas Cole home, studio, and other property comprising the historic site.

SEC. 903. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly in the Hudson River Valley region in the State of New York.

(2) Thomas Cole is recognized as America's most prominent landscape and allegorical painter of the mid-19th century.

(3) Located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole's Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark.

(4) Within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact.

(5) The State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region.

(6) Establishment of the Thomas Cole National Historic Site will provide opportunities for the illustration and interpretation of cultural themes of the heritage of the United States and unique opportunities for education, public use, and enjoyment.

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

(1) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

SEC. 904. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established, as an affiliated area of the National Park System, the Thomas Cole National Historic Site in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 218 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

SEC. 905. RETENTION OF OWNERSHIP AND MANAGEMENT OF HISTORIC SITE BY GREENE COUNTY HISTORICAL SOCIETY.

The Greene County Historical Society of Greene County, New York, shall continue to own, manage, and operate the historic site.

SEC. 906. ADMINISTRATION OF HISTORIC SITE.

(a) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—The historic site shall be administered by the Society in a manner consistent with this title and all laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(b) COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE TO SOCIETY.—The Secretary may enter into cooperative agreements with the Society to preserve the Thomas Cole House and other structures in the historic site and to assist with education programs and research and interpretation of the Thomas Cole House and associated landscapes.

(2) OTHER ASSISTANCE.—To further the purposes of this title, the Secretary may enter into cooperative agreements with the State of New York, the Society, the Thomas Cole Foundation, and other public and private entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the provision of assistance to develop, present, and fund art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(c) ARTIFACTS AND PROPERTY.—

PERSONAL PROPERTY GENERALLY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—Within two complete fiscal years after the date of the enactment of this title, the Secretary shall develop a general management plan for the historic site with the cooperation of the Society. Upon the completion of the plan, the Secretary shall provide a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entitles. The plan shall be prepared in accordance with section 12(b) of Public Law 91–383 (16 U.S.C. 1a–1 et seq.; commonly known as the National Park System General Authorities Act).

SEC. 907. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE X—REAUTHORIZATION OF HISTORIC PRESERVATION FUND AND ADVISORY COUNCIL ON HISTORIC PRESERVATION.

SEC. 1001. REAUTHORIZATION OF HISTORIC PRESERVATION FUND.

The second sentence of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended by striking ''1997'' and inserting ''2004''.

SEC. 1002. REAUTHORIZATION OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking ''2000'' and inserting in lieu thereof, ''2004''.

TITLE XI—EL CAMINO REAL DE TIERRA ADENTRO NATIONAL HISTORIC TRAIL

SEC. 1101. SHORT TITLE.

This title may be cited as the ''El Camino Real de Tierra Adentro National Historic Trail Act''.

SEC. 1102. FINDINGS.

Congress finds that—

(1) El Camino Real de Tierra Adentro (the Royal Road of the Interior), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and Santa Fe (1610–1821);

(2) the portion of El Camino Real in what is now the United States extended between El Paso, Texas, and present San Juan Pueblo, New Mexico, a distance of 404 miles;

(3) El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland;

(4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived;

(5) in 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of El Camino Real;

(6) during the Mexican National Period and part of the United States Territorial Period, El Camino Real facilitated the emigration of people to New Mexico and other areas that were to become part of the United States;

(7) the exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderland was made possible by El Camino Real, the historical period of which extended from 1598 to 1882;

(8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used El Camino Real during the historic development of the borderland, promoting cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans; and

(9) El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine,

foods, architecture, language, place names, irrigation systems, and Spanish law.

SEC. 1103. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

''(21) EL CAMINO REAL DE TIERRA ADENTRO.—

''(A) IN GENERAL.—El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to San Juan Pueblo, New Mexico, as generally depicted on the maps entitled 'United States Route: El Camino Real de Tierra Adentro', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico', dated March 1997.

''(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

''(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

''(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

''(ii) consult with affected Federal, State, local governmental and tribal agencies in the administration of the trail.

''(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.''.

TITLE XII—EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL

SEC. 1201. SHORT TITLE.

This title may be cited as the ''El Camino Real de los Tejas National Historic Trail Act of 1998''.

SEC. 1202. FINDINGS.

Congress finds that—

(1) El Camino Real de los Tejas (the Royal Road to the Tejas), served as the primary route between the Spanish viceregal capital of Mexico City and the Spanish provincial capital of Tejas at Los Adaes (1721–1773) and San Antonio (1773–1821);

(2) the seventeenth, eighteenth, and early nineteenth century rivalries among the European colonial powers of Spain, France, and England and after their independence, Mexico and the United States, for dominion over lands fronting the Gulf of Mexico, were played out along the evolving travel routes in this immense area;

(3) the future of several American Indian nations, whose prehistoric trails were later used by the Spaniards for exploration and colonization, was tied to these larger forces and events and the nations were fully involved in and affected by the complex cultural interactions that ensued;

(4) the Old San Antonio Road was a series of routes established in the early 19th century sharing the same corridor and some routes of El Camino Real, and carried American immigrants from the east, contributing to the formation of the Republic of Texas, and its annexation to the United States;

(5) the exploration, conquest, colonization, settlement, migration, military occupation, religious conversion, and cultural exchange that occurred in a large area of the borderland was facilitated by El Camino Real de los Tejas as it carried Spanish and Mexican influences northeastward, and by its successor, the Old San Antonio Road, which carried American influence westward, during a historic period which extended from 1689 to 1850; and

(6) the portions of El Camino Real de los Tejas in what is now the United States extended from the Rio Grande near Eagle Pass and Laredo, Texas and involved routes that changed through time, that total almost 2,600 miles in combined length, generally coursing northeasterly through San Antonio, Bastrop, Nacogdoches, and San Augustine in Texas to Natchitoches, Louisiana, a general corridor distance of 550 miles.

SEC. 1203. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

''(22) EL CAMINO REAL DE LOS TEJAS.—

''(A) IN GENERAL.—El Camino Real de los Tejas (The Royal Road to the Tejas) National Historic Trail, a combination of routes totaling 2,580 miles in length from the Rio Grande near Eagle Pass and Laredo, Texas to Natchitoches, Louisiana, and including the Old San Antonio Road, as generally depicted on the maps entitled 'El Camino Real de los Tejas', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated ___ July 1998. A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(B) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.''.

TITLE XIII—MINUTEMAN MISSILE NATIONAL HISTORIC SITE

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Minuteman Missile National Historic Site Establishment Act of 1998''.

SEC. 1302. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Minuteman II intercontinental ballistic missile (hereinafter referred to as ''ICBM'') launch control facility and launch facility known as ''Delta 1'' and ''Delta 9'', respectively, have national significance as the best preserved examples of the operational character of American history during the Cold War;

(2) the facilities are symbolic of the dedication and preparedness exhibited by the missileers of the Air Force stationed throughout the upper Great Plains in remote and forbidding locations during the Cold War;

(3) the facilities provide a unique opportunity to illustrate the history and significance of the Cold War, the arms race, and ICBM development; and

(4) the National Park System does not contain a unit that specifically commemorates or interprets the Cold War.

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

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations the structures associated with the Minuteman II missile defense system;

(2) to interpret the historical role of the Minuteman II missile defense system in the broader context of the Cold War and the role of the system as a key component of America's strategic commitment to preserve world peace; and

(3) to complement the interpretive programs relating to the Minuteman II missile defense system offered by the South Dakota Air and Space Museum at Ellsworth Air Force Base.

SEC. 1303. MINUTEMAN MISSILE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—(1) The Minuteman Missile National Historic Site in the State of South Dakota (hereinafter referred to as the ''historic site'') is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the following Minuteman II ICBM launch control facilities, as generally depicted on the map referred to as ''Minuteman Missile National Historic Site'', numbered 406/80,008 and dated September, 1998:

(A) An area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 1 Launch Control Facility''.

(B) An area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 9 Launch Facility''.

(2) The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to make minor adjustments to the boundary of the historic site.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary shall administer the historic site in accordance with this title and laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (16 U.S.C. 461–467).

(c) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense and the Secretary of State, as appropriate, to ensure that administration of the historic site is in compliance with applicable treaties.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public and private entities and individuals in furtherance of the purposes of this title.

(e) LAND ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands and interests therein within the boundaries of the historic site by donation, purchase with donated or appropriated funds, exchange or transfer from another Federal agency: *Provided*, That lands or interests therein owned by the State of South Dakota may only be acquired by donation or exchange.

(2) The Secretary shall not acquire any lands pursuant to this title if the Secretary determines that such lands, or any portion thereof, are contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), unless all remedial action necessary to protect human health and the environment has been taken pursuant to such Act.

(f) GENERAL MANAGEMENT PLAN.—(1) Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site.

(2) The plan shall include an evaluation of an appropriate location for a visitor facility and administrative site within the areas depicted as ''Support Facility Study Area—Alternative A'' or ''Support Facility Study Area—Alternative B'' on the map referred to in subsection (a). Upon a determination by the Secretary of the appropriate location for such facilities, the boundaries of the historic site shall be modified to include the selected site.

(3) In developing the plan, the Secretary shall consider coordinating or consolidating appropriate administrative, management, and personnel functions with Badlands National Park.

SEC. 1304. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this title.

(b) AIR FORCE FUNDS.—The Secretary of the Air Force shall transfer to the Secretary any funds specifically appropriated to the Air Force in FY 1999 for the maintenance, protection, or preservation of the facilities described in section 3. Such funds shall be used by the Secretary for establishing, operating, and maintaining the historic site.

(c) LEGACY RESOURCE MANAGEMENT PROGRAM.—Nothing in this title affects the use of any funds available for the Legacy Resource Management Program being carried out by the Air Force that, before the date of enactment of this title, were directed to be used for resource preservation and treaty compliance.

TITLE XIV—COMMERCIAL FILMING

SEC. 1401. FEE AUTHORITY AND REPEAL OF PROHIBITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Interior (in this section referred to as the ''Secretary'') may permit, under terms and conditions considered necessary by the Secretary, the use of lands and facilities administered by the Secretary for the making of any motion picture, television production, soundtrack, or similar project, if the Secretary determines that such use is appropriate and will not impair the values and resources of the lands and facilities.

(2) FEES.—(A) Any permit under this section shall require the payment of fees to the Secretary in an amount determined to be appropriate by the Secretary sufficient to provide a fair return to the government in accordance with subparagraph (B), except as provided in subparagraph (C). The amount of the fee shall be not less than the direct and indirect costs to the Government for processing the application for the permit and the use of lands and facilities under the permit, including any necessary costs of cleanup and restoration, except as provided in subparagraph (C).

(B) The authority of the Secretary to establish fees under this paragraph shall include, but not be limited to, authority to issue regulations that establish a schedule of rates for fees under this paragraph based on such factors as—

(i) the number of people on site under a permit;

(ii) the duration of activities under a permit;

(iii) the conduct of activities under a permit in areas designated by statute or regulations as special use areas, including wilderness and research natural areas; and

(iv) surface disturbances authorized under a permit.

(C) The Secretary may, under the terms of the regulations promulgated under paragraph (4), charge a fee below the amount referred to in subparagraph (A) if the activity for which the fee is charged provides clear educational or interpretive benefits for the Department of the Interior.

(3) BONDING AND INSURANCE.—The Secretary may require a bond, insurance, or such other means as may be necessary to protect the interests of the United States in activities arising under such a permit.

(4) REGULATIONS.—(A) The Secretary shall issue regulations implementing this subsection by not later than 180 days after the date of the enactment of this title.

(B) Within 3 years after the date of enactment of this title, the Secretary shall review and, as appropriate, revise regulations issued under this paragraph. After that time, the Secretary shall periodically review the regulations and make necessary changes.

(b) COLLECTION OF FEES.—Fees shall be collected under subsection (a) whenever the proposed filming, videotaping, sound recording, or still photography involves product or service advertisements, or the use of models, actors, sets, or props, or when such filming, videotaping, sound recording, or still photography could result in damage to resources or significant disruption of normal visitor uses. Filming, videotaping, sound recording or still photography, including bona fide newsreel or news television film gathering, which does not involve the activities or impacts identified herein, shall be permitted without fee.

(c) EXISTING REGULATIONS.—The prohibition on fees set forth in paragraph (1) of section 5.1(b) of title 43, Code of Federal Regulations, shall cease to apply upon the effective date of regulations under subsection (a). Nothing in this section shall be construed to affect the regulations set forth in part 5 of such title, other than paragraph (1) thereof.

(d) PROCEEDS.—Amounts collected as fees under this section shall be available for expenditure without further appropriation and shall be distributed and used, without fiscal year limitation, in accordance with the formula and purposes established for the Recreational Fee Demonstration Program under section 315 of Public Law 104–134.

(e) PENALTY.—A person convicted of violating any regulation issued under subsection (a) shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 6 months, or both, and shall be ordered to pay all costs of the proceedings.

(f) EFFECTIVE DATE.—This section and the regulations issued under this section shall become effective 180 days after the date of the enactment of this title, except that this subsection and the authority of the Secretary to issue regulations under this section shall be effective on the date of the enactment of this title.

TITLE XV—BANDELIER NATIONAL MONUMENT ADDITION

SEC. 1501. SHORT TITLE.

This title may be cited as the ''Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1998''.

SEC. 1502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) Bandelier National Monument (hereinafter, the Monument) was established by Presidential proclamation on February 11, 1916, to preserve the archeological resources of a ''vanished people, with as much land as may be necessary for the proper protection thereof. . .'' (No. 1322; 39 Stat. 1746).

(2) At various times since its establishment, the Congress and the President have adjusted the Monument's boundaries and purpose to further preservation of archeological and natural resources within the Monument.

(A) On February 25, 1932, the Otowi Section of the Santa Fe National Forest (some 4,699 acres of land) was transferred to the Monument from the Santa Fe National Forest (Presidential Proclamation No. 1191; 17 Stat. 2503).

(B) In December of 1959, 3,600 acres of Frijoles Mesa were transferred to the National Park Service from the Atomic Energy Committee (hereinafter, AEC) and subsequently added to the Monument on January 9, 1991, because of ''pueblo-type archeological ruins germane to those in the monument'' (Presidential Proclamation No. 3388).

(C) On May 27, 1963, Upper Canyon, 2,882 acres of land previously administered by the AEC, was added to the Monument to preserve ''their unusual scenic character together with geologic and topographic features, the preservation of which would implement the purposes'' of the Monument (Presidential Proclamation No. 3539).

(D) In 1976, concerned about upstream land management activities that could result in flooding and erosion in the Monument, Congress included the headwaters of the Rito de los Frijoles and the Cañada de Cochiti Grant (a total of 7,310 acres) within the Monument's boundaries (Public Law 94–578; 90 Stat. 2732).

(E) In 1976, Congress created the Bandelier Wilderness, a 23,267 acres area that covers over 70 percent of the Monument.

(3) The Monument still has potential threats from flooding, erosion, and water quality deterioration because of the mixed ownership of the upper watersheds, along its western border, particularly in Alamo Canyon.

(b) PURPOSE.—The purpose of this title is to modify the boundary of the Monument to allow for acquisition and enhanced protection of the lands within the Monument's upper watershed.

SEC. 1503. BOUNDARY MODIFICATION.

Effective on the date of enactment of this title, the boundaries of the Monument shall be modified to include approximately 935 acres of land comprised of the Elk Meadows subdivision, the Gardner parcel, the Clark parcel, and the Baca Land & Cattle Co. lands within the Upper Alamo watershed as depicted on the National Park Service map entitled ''Proposed Boundary Expansion Map Bandlier National Monument'' dated July, 1997. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

SEC. 1504. LAND ACQUISITION.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Secretary of the Interior is authorized to acquire lands and interests therein within the boundaries of the area added to the Monument by this title

by donation, purchase with donated or appropriated funds, transfer with another Federal agency, or exchange: *Provided*, That no lands or interests therein may be acquired except with the consent of the owner thereof.

(b) STATE AND LOCAL LANDS.—Lands or interests therein owned by the State of New Mexico or a political subdivision thereof may only be acquired by donation or exchange.

(c) ACQUISITION OF LESS THAN FEE INTERESTS IN LAND.—The Secretary may acquire less than fee interests in land only if the Secretary determines that such less than fee acquisition will adequately protect the Monument from flooding, erosion, and degradation of its drainage waters.

SEC. 1505. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national Monument, including lands added to the Monument by this title, in accordance with this title and the provisions of law generally applicable to units of National Park System, including the Act of August 25, 1916, an Act to establish a National Park Service (39 Stat. 535; 16 U.S.C. 1, 2–4), and such specific legislation as heretofore has been enacted regarding the Monument.

SEC. 1506. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

TITLE XVI—MISCELLANEOUS TERRITORIES PROVISIONS

SEC. 1601. CLARIFICATION OF ALLOTMENT FOR TERRITORIES.

Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(2)) is amended to read as follows:

''(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands;''.

SEC. 1602. ELIGIBILITY FOR HOUSING ASSISTANCE.

(a) Section 214(a) of the Housing Community Development Act of 1980 (42 U.S.C. 1436(a)) is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1932 note) while the applicable section is in effect: *Provided*, That, within Guam and the Commonwealth of the Northern Mariana Islands any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.''.

TITLE —MISCELLANEOUS NEW MEXICO LAND TRANSFERS

SEC. . OLD COYOTE ADMINISTRATION SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this section, the Secretary of the Interior (herein ''the Secretary'') shall convey to the County of Rio Arriba, New Mexico (herein ''the County''), subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvement on the land) known as the ''Old Coyote Administrative Site'' located approximately ½ mile east of the Village of Coyote, New Mexico, on State Road 96, comprising one tract of 130..27 acres (as described in Public Land Order 3730), and one tract of 276.76 acres (as described in Executive Order 4599).

(b) TERM AND CONDITIONS.—

(1) Consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the special pricing program for Governmental entities under the Recreation and Public Purposes Act; and,

(B) an agreement between the Secretary and the County indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this section shall be used for public purposes. If such lands cease to be used for public purposes, at the option of the United States, such lands will revert to the United States.

(c) LAND WITHDRAWALS.—Land withdrawals under Public Land order 3730 and Executive Order 4599 as extended in the Federal Register on May 25, 1989 (54 F.R. 22629) shall be revoked simultaneous with the conveyance of the property under subsection (a).

SEC. . OLD JICARILLA ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this section, the Secretaries of Agriculture and Interior (herein ''the Secretaries'') shall convey to San Juan College, in Farmington, New Mexico, subject to the terms and conditions under subsection (c), all right, title, and interest of the United States in and to a parcel of real property (including any improvements on the land) consisting of approximately ten acres known as the ''Old Jicarilla Site'' located in San Juan County, New Mexico (T29N; R5W; portions of Sections 29 and 30).

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretaries and the President of San Juan College. The cost of the survey shall be borne by San Juan College.

(c) TERMS AND CONDITIONS.—

(1) Notwithstanding exceptions of application under the Recreation and Public Purposes Act (43 U.S.C. 869(c)), consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the Bureau of Land Management special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretaries and San Juan College indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this section shall be used for educational and recreational purposes. If such lands cease to be used for such purposes, at the option of the United States, such lands will revert to the United States.

(d) LAND WITHDRAWALS.—Public Land Order 3443, only insofar as it pertains to lands described in subsections (a) and (b) above, shall be revoked simultaneous with the conveyance of the property under subsection (a).

ADDITIONAL STATEMENT

THE VERY BAD DEBT BOXSCORE

● Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 20, 1998, the Federal debt stood at $5,543,686,190,391.39 (Five trillion, five hundred forty-three billion, six hundred eighty-six million, one hundred ninety thousand, three hundred ninety-one dollars and thirty-nine cents).

One year ago, October 20, 1997, the Federal debt stood at $5,418,458,000,000 (Five trillion, four hundred eighteen billion, four hundred fifty-eight million).

Five years ago, October 20, 1993, the Federal debt stood at $4,405,120,000,000 (Four trillion, four hundred five billion, one hundred twenty million).

Ten years ago, October 20, 1988, the Federal debt stood at $2,622,321,000,000 (Two trillion, six hundred twenty-two billion, three hundred twenty-one million).

Fifteen years ago, October 20, 1983, the Federal debt stood at $1,382,213,000,000 (One trillion, three hundred eighty-two billion, two hundred thirteen million) which reflects a debt increase of more than $4 trillion—$4,161,473,190,391.39 (Four trillion, one hundred sixty-one billion, four hundred seventy-three million, one hundred ninety thousand, three hundred ninety-one dollars and thirty-nine cents) during the past 15 years.●

DEDICATION OF THE MINNESOTA KOREAN WAR VETERANS MEMORIAL

● Mr. WELLSTONE. Mr. President, I rise today to call the attention of my colleagues and the American people to a new veterans memorial in my home state of Minnesota. I believe this memorial will help us remember and better understand the sacrifices made by Korean War veterans.

As a member of the Senate Veterans' Affairs Committee, I was pleased to participate on a recent hot Sunday afternoon in a dedication ceremony for the Minnesota Korean War Veterans Memorial.

The ceremony was a fitting tribute to the 94,000 Minnesotans who bravely answered the call of duty nearly half a century ago, serving in a land far from home during the ''Forgotten War.'' A sea of umbrellas protected many in the crowd from the scorching sun while the talented Minnesota State Band entertained with patriotic tunes. Various speakers recalled the brave service by Korean War veterans. On that September afternoon, we paused to remember and honor Korean War veterans.

Located in the Court of Honor on the State Capitol grounds in St. Paul, the memorial includes eight polished columns bearing the names of the more than 700 Minnesotans who made the ultimate sacrifice. It includes an eight foot bronze statue of an American soldier searching for his buddies.

Mr. President, I ask my colleagues to join me in thanking the members and supporters of Minnesota Korean War Veterans Chapter One for making this important memorial a reality.●

PLACING A HOLD ON THREE NOMINEES TO THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

● Mr. GRASSLEY. Mr. President, I am placing a ''hold'' on three nominees to the Metropolitan Washington Airports Authority, Robert Clarke Brown, John Paul Hammerschmidt, and Norman Y. Mineta. I am concerned about the lack of additional landing and take-off slots at Reagan National Airport. Additional slots are vital to the economic interests of Iowa. They are also necessary to treat Iowa air travelers more fairly.●

TERRY SANFORD

● Mr. DODD. Mr. President, earlier this year, this body mourned the passing of a former colleague and a political pioneer: Terry Sanford of North Carolina. Terry Sanford served honorably in the Senate from 1987 to 1993, but he is primarily remembered as the progressive Governor who guided the state of North Carolina from the days of segregation into the modern era of economic prosperity and racial tolerance.

Elected in 1960, four years before the Civil Rights Act, Terry Sanford aggressively pursued an agenda of racial equality, creating a biracial panel to work on solutions to end job discrimination against blacks. But as crucial as desegregation was to North Carolina's future, Terry Sanford realized that it would have a limited impact without investments in education.

As much as any figure in modern American politics, Terry Sanford recognized that education was the key to opportunity and economic growth in this country. He established North Carolina's community college system, invested heavily in the public schools, founded the North Carolina School for the Arts, and set up a school for the state's gifted students. He also promoted the use of the research facilities at the state's universities as the foundation of Research Triangle Park, which has become one of the nation's leading hubs of high-tech economic activity.

After leaving the Governor's office, he went on to serve as the President of Duke University for 16 years, and he led this university to national prominence.

Many people have expressed their admiration for Terry Sanford in this chamber and in publications across the country, and, in my opinion, one of the most eloquent pieces honoring this Southern statesman actually appeared in a newspaper in Connecticut. Keith C. Burris of The Journal-Inquirer did an excellent job of capturing the essence of this great man who forever changed the face of his state and our nation. His piece reminded me how fortunate I was to serve with Terry Sanford and to call him a friend.

I ask that an article by Mr. Burris be printed in the RECORD.

The article follows:

[From the Journal Inquirer, May 1, 1998]

TERRY SANFORD, SOWER AND BUILDER

(By Keith C. Burris)

Terry Sanford died last week at the age of 80. The New York Times and other august publications noted his extraordinary accomplishments: a Bronze Star and Purple Heart for paratrooping into the Battle of the Bulge during World War II; governor of North Carolina from 1961 to 1965; president of Duke University from 1969 to 1985; and U.S. senator from North Carolina from 1986 to 1992. But none of these facts or titles quite captures the greatness or the goodness of the man.

The greatness of the man was that, finding himself at odds with the folkways of his homeland, he rose above them and then changed them. It's a lot easier simply to be a rebel.

The goodness of Terry Sanford was that he found a way to contribute wherever he was. He accepted the setbacks of his life not only with grace but with valor. When one door shut, he opened another, walked in, and started to build something. It's a whole lot easier to sit on your resume and stew on your defeats.

Sanford was a proud man and he had a politician's memory. But his mind and his heart were as expansive as a Carolina mountain vista. No matter what life dealt him, he kept on trying to improve his state, region, and country.

As he fought his last battle—with cancer—Terry Sanford was the principal fund-raiser for a new center for the arts in the North Carolina ''research triangle,'' the North Carolina Performing Arts Institute. He spent his last days on his latest dream. His colleagues say they will need two healthy men to match the dying man's energy.

Terry Sanford's first dream was Martin Luther King's: equal opportunity, an end to Jim Crow, and an integrated society where everyone is judged by the ''content of his character.''

In 1960 Sanford ran for governor of North Carolina on a platform of racial progress and economic opportunity, making good schools the core of his message. In 1998, big deal. But in 1960, almost suicidal.

This was before the great crusades of King and the landmark civil rights legislation of 1964 and 1965. Just to make things a little more interesting, Sanford also endorsed John F. Kennedy for president in 1960. Many people, in many parts of America, knew one thing about Kennedy, and it wasn't that he was young or liberal or rich; it was that he was Roman Catholic. Endorsing Kennedy was not something that would help Sanford carry the mountain towns.

But he won. And good and bad came of it.

The good was that Sanford was a superb governor—judged one of the 10 best in the century by the people who vote on these things up at Harvard. Those who are brave, and smart, and prophetic in politics are seldom the ones who can keep the streets clean too. But Sanford was the exception. As governor he was efficient, effective, and innovative. He integrated the parks; he built a community college system; he founded the North Carolina School for the Arts in Winston-Salem and the Governor's School for Gifted Students; he started his own war on poverty before LBJ did. As Albert Hunt has written, Sanford preached states' responsibilities when other governors preached states' rights. And while George Wallace stood in the schoolhouse door, Terry Sanford built schoolhouses.

He also raised taxes. And for this, as well as his Southern liberalism, Sanford was hated by many North Carolinians for many years. Forced to leave office by a term limit in 1965, he was not elected to anything again in North Carolina for more than 20 years.

Sanford paid a huge price for his political courage. But in the long run he reaped a proud harvest. In many ways Sanford cut the path for the modern North Carolina: the great schools and universities, the research base, the medical schools, the educated and skilled work force, the social cohesion and tolerance.

CREATING THE NEW SOUTH

Someday someone will write the modern version of W.J. Cash's classic ''The Mind of the South'' and call it something like ''The Rise of the New South.'' The New South is not all sweetness and light. But it has provided economic opportunity and education for the many, which Connecticut cannot always say about itself, and it is the most racially integrated and harmonious region of the nation.

Sanford and a few other progressive Southern governors—like Leroy Collins of Florids—also paved the way for the New South governors who changed the face of American politics—governors like Jim Hunt, Lawton Chiles, Richard Riley, Douglas Wilder, and Zel Miller. And two others: Jimmy Carter and Bill Clinton.

What a shame that Sanford did not make it to the White House—he tired in 1972 and 1976—instead of the president who was crippled by his sense of morality and the president who is crippled by his lack of morality. In 1972 Terry Sanford's fellow Democrats in North Carolina voted not for him but for George Wallace in their presidential primary.

The mark of the Southern progressive governor was and is trashing ideology to do what works; fiscal sanity; and emphasis on education. Two generations of these governors, starting with Sanford, have moved the center of the Democratic Party and saved it from national extinction. And they have pushed politics, especially Democratic politics, away from philosophy to nuts and bolts.

Not all of that has been good either. But when you project Sanford's programs and positions in the 1960s into the 1990s, you see that he was the prototype. His accomplishment as president of Duke was no less important.

Higher learning is the Southern liberal's core value. And just as Sanford was a precursor for others, Frank Porter Graham was Sanford before Sanford. Graham led a generation of Carolina progressives and had mixed success at the polls. But his base and great accomplishment was the University of North Carolina at Chapel Hill. Graham made it first-rate.

Sanford, who was a Chapel Hill graduate, in turn made Duke first-rate. He did it through sheer energy and ambition: hiring the best he could find; raising the money to afford those hires; eliminating quotas; building new programs, departments, and facilities; and bringing gifted and controversial thinkers and writers to the campus for long and short visits. Sanford was a big dreamer, but a practical one. He wanted one of the state's best schools to be one of the nation's best. And the dream came true. Today Duke is rated one of the nation's top 10. Chapel Hill, only a few miles away, is too. Their rivalry has not been bad for North Carolina.

THE SOUTHERN HUMANIST

It is hard for Northerners and children of the 1990s to comprehend the Southern liberal of the 1930s, 40s and 50s. The Southern liberal had to have physical and moral courage. He had to stay focused. He did not have the luxury of class wars, race wars, rights talk that extends to trees and rocks, and ideological fratricide. Properly, he is not called a liberal

or a progressive at all but a humanist. Terry Sanford was the great Southern humanist of his generation in politics.

The Southern humanist never trivialized himself like the Northern liberal, for two reasons. First, he was always so much the underdog that he had to stay attuned to people who didn't think a bit like him. This kept the Southern humanist humble. Second, Southern humanism was based in gospel-inspired neighborliness, as opposed to fads, modernism, and, ultimately, rationalism.

It is also hard for the Northerner and the modern to understand a guy like Sanford. What made him go?

It wasn't sheer ambition, because he did so much that hurt his career and so much that was irrelevant to it. More than one political reporter remarked that Sanford lacked the ''killer instinct'' that Carter possessed and Clinton possesses in spades.

The answer is that Sanford was a citizen—a public man in the ancient Greek sense. Education and politics were one to him; public life was citizenship, and it came before and after office. It lasted all your life.

This sense of mission and duty is a much deeper thing than the vanity that seeks and clings to office—any office—like life's blood.

For a politician Sanford was wonderfully stoical. When he ran for the Senate I was working in Winston-Salem as an editorial writer. He came in for an endorsement interview with the editorial board (an endorsement he did not receive) and answered our questions for an hour or so. I thought him every inch a senator—in fact, a president. But I was also impressed by his lack of pretense.

Another writer asked him, as he was about to go: ''Governor, aren't you taking a big risk? If you lose, you go out as a loser and you'll be remembered as a loser.''

Sanford shrugged and smiled and skipped a beat as if considering self-censoring and dismissing it. And then he said: ''So what? Most folks don't remember you, win or lose. You're just an old politician. . . . People don't remember what little good I did. And that's fine. But I do, and I take my satisfaction there.''

THE INSTINCT TO SERVE

Sanford did go out with a loss. His disastrous reelection campaign for the Senate was sunk by a long hospital stay and a roguish opponent—a former Democrat and Sanford protege—who ran on the brave slogan that Sanford was too sick to campaign.

I wrote to Sanford after that loss—just a one-liner to say I was sorry. To my surprise he wrote back in his own hand. He said that his defeat might be for the best. For now he'd be home in North Carolina, he said, and could see his grandchildren, do some teaching, and maybe pursue some projects for the state—like the arts institute.

Yes, he did lack the killer instinct. Terry Sanford has the serving instinct. It helped him to change a state, a region, and a nation.●

TRIBUTE TO VINCENT D'ACUTI ''MR. SOUTH BURLINGTON''

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a dear neighbor and lifetime friend. Vincent D'Acuti passed away on September 23th. However, his sense of humor and his devotion to his community will keep him in the hearts and minds of those who knew and loved him.

Often called ''Mr. South Burlington,'' Vincent served his community in a variety of ways. He was a selectman in South Burlington for 10 years during the transition from town to city in the 1970's. While he was on the board, the population doubled and numerous improvement projects were undertaken. He was on the Burlington International Airport Commission, helped form the Burlington Boys and Girls Club, and was an active member of the Kiwanis club for over fifty years. He was a fixture at the annual pancake breakfast and charity auction run by the Kiwanis, served as their lieutenant governor for New England, and received a national Kiwanis award for 50 years of service.

He also served his country in the army, including a stint in Normandy. While stationed at Fort Ethan Allen in Colchester, he met his future wife, Lillian Langlois of South Burlington. After he was discharged, he returned to the Burlington area to work and raise his family.

Vincent approached his service of both country and community with a sense of humor which endeared himself to everyone he met. As I read the article in the September 34th edition of The Burlington Free Press, I was struck at how many people mentioned this attribute. Frank Balch, a former employer of Vincent said, ''He loved his life and enjoyed it to the hilt. He was an unforgettable person.'' He loved to tell stories and most of them were about his wife and two daughters. The joy which Vincent shared with others grew from the joy he found with his wife their daughters, Donna and Diane.

My wife Liz recalled a time when she was babysitting for his children. There was a huge storm, and as is typical in rural Vermont, the power went out. Liz wasn't expecting Vince or Lillian to be home for hours, so when she heard someone at the back door, she grabbed a vacuum cleaner and positioned herself by the door, ready to defend herself and Vince's two daughters. However, the mysterious noise she heard was Vince returning home early from his work as owner of the local Dairy Queen. Luckily, he said hello before my wife wacked him over the head with the Hoover!

Through his commitment to his community, his friends, and his family, he showed us how one man can truly make a difference in the lives of others. Through his humor and charisma he showed us all how to live life to its fullest. Farewell Vincent. Your friendship meant a great deal to me, and to so many others whose lives you touched.●

USDA'S INSPECTOR GENERAL REPORT DOCUMENTING MISMANAGEMENT PRACTICES IN THE FLUID MILK PROMOTION PROGRAM

● Mr. LEAHY. Mr. President, a report issued by the Inspector General of the U.S. Department of Agriculture raises very serious concerns about the International Dairy Foods Association (IDFA), the Milk Industry Foundation (MIF) and the National Fluid Milk Processor Promotion Board (Board) in terms of the fluid milk promotion program.

The Inspector General (IG) report identifies: unapproved expenditures in violation of law, potential conflicts of interest, possible cover-up activities, inaccurate financial statements, sole-source contracting, inadequate controls over contracting, excessive payments, failure to enforce contracts, property disputes over ownership of copyrights, and other serious violations by the Board or its agents IDFA and MIF.

The fluid milk promotion law contains penalties for violations including, on conviction, a fine of not more than $1,000 or imprisonment for not more than 1 year, or both. The law also provides that ''nothing . . . shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.'' I serve on three committees and I have a keen interest in this matter.

It is also a violation for funds collected under the law ''to be used in any manner for the purpose of influencing legislation or government action or policy.''

I will omit details, but as background note that the law allows the appointment of a Board which may enter into contracts, with the approval of the Secretary, to carry out milk promotion and research programs. Funds are generated by a 20-cent per hundredweight assessment on certain processors of milk. This assessment is imposed through an order which is binding on processors.

The Board is to ''keep minutes . . . and promptly report minutes of each Board meeting to the Secretary.'' The Board may pay for the advertising of fluid milk if authorized by the Secretary. Programs or projects can not become effective except ''on the approval of the Secretary.'' Also, the law provides that the Board is to ''administer the order.''

The law does not provide for the involvement of IDFA or MIF specifically. However, the Board is authorized, with approval of the Secretary, to enter into contracts or agreements and is authorized to employ such persons as the Board considers necessary.

As background for those not familiar with these organizations, note that IDFA's website says that ''IDFA serves as an umbrella organization for three constituent groups: the Milk Industry Foundation, the National Cheese Institute, and the International Ice Cream Association. . . .'' IDFA is an association for ''processors, manufacturers, marketers, distributors and suppliers of dairy foods, including milk, cheese, and ice cream and frozen desserts.'' More than 800 companies are in IDFA. MIF has 185 member companies, the National Cheese Institute has 95 member companies, and 150 companies are

members of the International Ice Cream Association.

Given the seriousness of the charges, I believe the Secretary of Agriculture should immediately terminate its support for the fluid milk promotion arrangement between the Board and MIF and IDFA, and immediately begin searching for a replacement for those two associations to continue fluid milk promotion efforts. I am sending a letter to the Secretary that contains this request and restates some of the points that I am mentioning in this floor statement.

I believe that a lot of the violations identified by the IG could have been eliminated if the Board had contracted directly with an advertising agency to do the milk promotion campaign. This would have avoided middlemen such as IDFA being able to skim money off the top in a manner that does not efficiently implement the law.

I will highlight just some of the concerns raised by the Inspector General's report. For example, it was not until three months after the Board's first contract with MIF had expired, and after the IG audit was begun, that the Agricultural Marketing Service of USDA approved that contract. MIF and the Board even agreed that the contract would not be effective until approved by USDA. However, by the time it had been approved ''the Board had paid MIF over $3 million and MIF, in turn, had contracted with an advertising firm which had spent over $123 million.''

The IG report continues:

> Even though it did not have the authority to do so, MIF entered into an agreement with a major advertising agency to provide most of the Board's advertising, public relations, and research.

Payments were made regarding 37 contracts which neither MIF, IDFA, the Board, or AMS could find so as to provide copies to the IG.

Also, the IG's report says that ''the financial statement as of March 31, 1995, and as of April 30, 1996, contained material omissions and questionable statements that, in the aggregate, were significant enough to affect the decisions of its users, including the Secretary, members of the U.S. Congress, and milk processors.''

I want to send a clear message to the Board, to IDFA, or anyone else, that Members of Congress do not like being misled. The IG report also notes that the processor Board has ''allowed the payment of over $127 million in expenses that were not supported by AMS-approved contracts,'' in violation of law.

$127 million is a lot of money but the situation is much worse. These funds are being raised by a mandatory assessment of processors of 20 cents/cwt. Yet, IDFA has charged in letters to the Secretary that increased assessments of processors will be passed through to consumers. So, if IDFA is correct, these assessments were paid by consumers but used to implement contracts that had not been approved.

I wish it were not the case that IDFA and its affiliated group, MIF, strongly contend that these types of assessments on processors are borne by consumers.

The IG also called into question the ''independence of some of the key contractor employees who have been assigned responsibility for Board activities.'' Who are some of these key contractors? The Milk Industry Foundation, the International Dairy Foods Association, ''outside legal counsel'' and an unnamed ''Worldwide Advertising and Public Relations Firm'' are key contractors.

On top of all the wrongdoing described in the Report, three key contractors have in their employment persons who are registered with the Congress as lobbyists. I am stunned that processor lobbyists who often work against the interests of dairy farmers, or support litigation against the Secretary and against the interests of dairy farmers, have some say over who gets this money.

I admit that it is natural that representatives of processors, whether they are milk, peanut, sugar, or corn processors, want to buy inputs cheaply. However, low farm prices are not in the best interests of the farmers who produce those products. With just a few exceptions most farm-state Senators support stronger prices for their farmers instead of lower prices for their farmers.

Indeed, it would make most hard-working dairy farmers sick to hear the salaries paid by the Board. An unnamed Board administrator had a ''contract increased in February 1998 to $180,000 for 23 hours of work per week.'' That is pretty good work if you can get it, especially considering what the average dairy farmer nets in a year and how hard our farmers work.

I understand that MIF and IDFA are not registered as nonprofit entities. They may actually be for-profit organizations. Certainly their employees believe in big profits for themselves when you look at their salaries.

In a very bizarre and suspicious twist, the processor Board contracted with MIF to appoint one of MIF's employees as Executive Director of the Milk Processor Education Program. But the processor Board was ''fully aware that MIF had no employees.'' MIF had to rely on IDFA for staff.

One of IDFA's senior employees was none other than the former head of the dairy division at USDA, Charlie Shaw. One of IDFA's hired lobbyists was a former high-level official at USDA, William Wasserman, now with M & R Associates. Another of IDFA's hired lobbyists is a former Senior Vice President of Public Voice for Food and Health Policy, Alan Rosenfeld. IDFA has also contributed lots of dough to Public Voice and Public Voice events, as have huge food processors.

This is a very cozy arrangement. MIF, which is run by IDFA, sued to end a program that generates a lot of additional income to dairy farmers in New England—the Northeast Dairy Compact. It generates this income for farmers by making processors pay a stable and fair price for milk. That was too much for MIF, so they sued the Secretary. This is an irony: MIF and IDFA oppose the Dairy Compact because of the small premiums assessed on dairy processors to help keep farmers in business and yet they support an assessment imposed on dairy processors when it benefits processors.

To be consistent regarding assessments, MIF and IDFA would have to oppose this program that they support. Also, Public Voice would have bite the IDFA hand that feeds it. But that will not happen since so much inside the beltway is based on ''show me the money.''

The IG found other interesting items. MIF is supposed to submit monthly progress reports to the Department of Agriculture. ''MIF has never submitted these reports,'' according to the IG's report. I would like to know why these violations continued?

The IG report notes that:

> It is clear that there was no meaningful competition for the development and maintenance of the Board's WEB site. The advertising agency assured that its subsidiary would be selected as the contractor by providing insider information to its subsidiary and accepting the bid proposal after the due date.

I hope USDA can explain to me what this statement about ''providing insider information'' means? I will ask USDA if they approved this payment for the WEB site. Any payments identified by the IG and in violation of provisions of the law should be returned.

In yet another odd development, both IDFA and the Agricultural Marketing Service (AMS) provided the Inspector General with minutes of the processors' Board meetings. However, ''there were material differences in the two sets of minutes provided.'' Here is the kicker. The Board's administrator said he would reconstruct the minutes. But the IG asks: ''We question how the Board's Administrator can 'reconstruct' official minutes of Board meetings held since 1994, as he was only appointed to the position in 1996.''

The next sentence in the IG's report is telling: ''Neither AMS nor the Board ensured compliance with the [Fluid Milk Promotion] Act or the Order.'' Why does Congress bother passing laws if they are just ignored?

My biggest potential concern is this. IDFA officers and registered lobbyists get control over huge amounts of money from the assessments of processors under the milk order. How do they compartmentalize their time? Do they work against dairy farmers' interests in terms of milk marketing order reform, for example, only when those minutes are paid for through dues and not assessments? When they implement or create strategies to lobby against the dairy compact or Option 1A do they punch out on a time sheet and

stop getting paid by assessments under the order? How will we know if the law was followed if the same people both lobby the Congress and USDA and implement the promotion law which prohibits lobbying?

The law does not permit the use of any funds collected by the Board ''in any manner for the purpose of influencing legislation or government action or policy.''

Yet, IDFA is well-known for its continuing efforts to influence USDA action and policy. It is imperative that all IDFA contacts and phone conversations with USDA regarding legislation affecting the Northeast Interstate Dairy Compact, dairy compacts in other states, other dairy policy, forward contracting, appropriations bills, and the decision of the Secretary regarding Option 1B be identified.

IDFA's close work with Alan Rosenfeld of Public Voice, later a lobbyist for IDFA, on dairy issues is well known. Did any of the strategy discussions with Public Voice take place while IDFA's time was being payed for by funds collected under the order? What about the salary negotiations between M & R Associates and Alan Rosenfeld while he was with Public Voice but trying to negotiate a job with IDFA and M & R Associates?

I will never understand how USDA could approve a contract with IDFA or MIF when the law specifically provides that no funds can be used to influence legislation or government action or policy.

Indeed, these industry associations are well known to Members of Congress and Hill staff because they give away truckloads of ice cream at the ice cream socials.

In light of the IG's Report, I am very concerned that money from the assessments under an order, used to benefit processors, may have subsidized efforts to oppose over-order premiums benefiting dairy producers under the dairy compact. In this event the only winners are the middlemen, IDFA and MIF, and the firms making the ads. There is a simple solution to this—get rid of these middlemen unless the Secretary can prevent all their activities trying to influence government policy and legislation.

All these improper activities and violations are fully explained in the IG Report. Let me present a few more of the highlights. The Report notes that ''AMS allowed the Board to commit and/or expend Program funds for 108 contracts, even though it had approved only 3 of these contracts prior to the contracts' effective dates.'' Yet section 1999H(c)(8) of the Fluid Milk Promotion Act requires the prior approval by AMS of all contracts prior to the ''expenditure of Program funds.''

I do not think IDFA and MIF should be above the law. Another interesting point is that the ''Worldwide Advertising and Public Relations Agency'' that I cited earlier had spent $123 million before AMS approved the contract with MIF. Page 23 of the Report noted that ''None of the $123 million paid to the advertising agency should have been paid until AMS approved the contracts.''

The IG says that MIF was aware that ''according to the Act and the Order, no payments were permitted until AMS had approved the contract.'' Did the advertising firm get lucrative contracts from IDFA, MIF, or their agents or members, to generate press and ads against the Northeast Compact which has greatly increased the income of dairy farmers in New England? Was any of the money raised by the promotion assessments on processors included in donations to Public Voice?

This matter is especially troubling because the advertising campaign ultimately developed, and the wonderful photos that were used to promote milk consumption, represent a great idea. This situation uncovered by the IG may be the classic example of unnecessary middlemen spoiling an otherwise good situation.

I support, as do I would think most of my colleagues, the advertising campaign to promote milk sales. Indeed, I have supported legislation to require assessments to promote other agricultural products. I would like the advertising campaign to continue but without the middlemen getting their take. I did not understand why the Board can not just contract with the advertising agency directly.

The IG report also notes that:

> MIF did not fulfill its contractual responsibilities to the Board by taking the steps necessary to protect the Board's interest in the copyrights to the photographs. We also question why the Board's legal counsel is not pursuing legal action against MIF because of its failure to properly protect the Board's interest in the copyrights.

On a larger front, I have been concerned with activities of IDFA, MIF and Public Voice for some time. MIF filed litigation in federal court to challenge the decision of the Secretary of Agriculture to implement the Northeast Dairy Compact. In a detailed letter dated April 10, 1996, IDFA strongly urged USDA not to approve the Compact. At the same time, Public Voice used almost the same language and expressed concerns identical to those of IDFA.

I have previously discussed that extremely close working relationship between Alan Rosenfeld of Public Voice, now with M & R Associates who represents IDFA, and IDFA during this time period. Just a couple of months later, Mr. Rosenfeld was officially listed as a lobbyist with M & R Associates in a lobbyist registration form signed by William Wasserman, formerly the consumer affairs advisor to the Secretary of Agriculture, but by then a hired lobbyist for IDFA.

For example, in a letter to Secretary Glickman dated April 26, 1996, Alan Rosenfeld used almost identical language as was used in a document called ''Talking Points in Opposition to the Northeast Interstate Dairy Compact'' produced by the Campaign for Fair Milk Prices. That Campaign is run by none other than William Wasserman, the registered IDFA lobbyist who hired Alan.

Fortunately, the Secretary disagreed with the IDFA-Public Voice views. He decided that the Northeast Interstate Dairy Compact was in the compelling public interest of the compact region.

There is no question that the giant processors are against the Compact, which gives farmers a little more income and keeps them farming. Most large processors are also for Option 1B, which could reduce the income of dairy farmers by about $1 million per day, according to economists with AgriMark—that is $365 million a year.

The IG also concluded that the ''Board had not followed good business practices by competitively negotiating for contractual services.'' $123 million was given to an advertising agency ''without competition.''

I recognize that Kraft, IDFA, and other representatives of manufacturers of milk, or their parent tobacco companies such as Phillip Morris, and those who receive donations from them, want farmers to get a low price for milk. Kraft buys milk to manufacture into products, so of course it wants a low price so it can increase its profits. But at some point if a lot of farmers go out of business, Kraft, IDFA and others might regret the harm they have caused.

As I said last week, I invite the public and the press to search Federal Election Commission records on this point and to ask groups such as Public Voice for Food and Health Policy how much money they receive from tobacco companies, food processors and milk manufacturers. Members of Congress have expressed a great deal of concern about the false information and misleading studies generated by the Tobacco Institute.

The International Dairy Foods Association has pumped out a sea of misinformation about the Compact and has tried to influence a lot of lawmakers. They have hired others to disguise the fact that their misinformation campaign was funded with money from these huge milk manufacturers.

Last week I provided details on these matters and listed a few of the groups and the people they hired to spin the press about the Northeast Dairy Compact in a negative way. I described some of the Lobbying Reports that showed the money interconnection. There is no question in Washington that the best way to get to the truth is to follow the money. The problem is that following the money takes a lot of work.

Public Voice, which is funded by the International Dairy Foods Association, other food processors and IDFA members, is a good example of how this works.

Even if they all—tobacco, Kraft and Public Voice lobbyists—used the same

line, the public is more likely to listen to Public Voice even if someone else wrote the script. The public might not suspect special interest spinning if Public Voice made the point. Of course, if they are all working together the key would be to make sure no one finds out.

The best way for the public to check this out is to ask Public Voice for the list of who funds them and who sponsors their events. Ask for the list of food processors and tobacco companies who sponsor these events and donate money. Ask Public Voice if they oppose the 20-cent assessments of processors that benefit IDFA and MIF? Or do they just oppose premiums that give dairy farmers more income?

But, as I recently discussed, some of the truth is found in the Lobby Reports that show who IDFA hired to represent the views of IDFA members. Yes, Public Voice got money, and one employee of Public Voice led the charge against the Compact and then took a job with M & R Associates, one of the groups hired by IDFA to kill the Compact. Public Voice took money from IDFA during this time period.

Some officials at USDA have views similar to Alan Rosenfeld and William Wasserman, especially those closest to the revolving door. There are many firms in Washington that are used to disguise who they work for so that the public can be easily misled. I would like to know the names of the other clients of M & R Associates.

I am very concerned about these lobbying efforts to discredit the Compact with misinformation. The address of IDFA listed in Washington Representatives, 1997, is 1250 H. Street, Suite 900, in Washington, D.C. The address of the Milk Industry Foundation is the same. So is the address of the National Cheese Institute. The International Ice Cream Association is also there.

The Agricultural Marketing Service of USDA has made a big mistake in giving the Milk Industry Foundation control over millions of dollars raised by a mandatory 20-cents-per-hundredweight assessment on many fluid milk products.

Suppose IDFA or MIF contracted with lobbyists to handle these operations? IDFA or MIF could funnel lucrative contracts using these mandatory assessments to friends who work with them in opposing the Compact, even though the Compact greatly benefits dairy farmers according to the federal Office of Management and Budget.

Even worse, when IDFA awards contracts on a basis other than competitive bidding, they could funnel money into the hands of their friends who would lobby the Congress against dairy farmers. I want to know the names and salaries of every lobbyist who works for or gets funding from IDFA, MIF, the Cheese Institute, the Tobacco Institute, Phillip Morris, Kraft and the Ice Cream Association. I also want to know the corporate funders of those groups—IDFA and MIF—who control the funds generated by mandatory assessments. For example, Alan Rosenfeld was hired from Public Voice to work as a lobbyist with M & R Strategic Services. He recently prepared a report for IDFA which was issued on IDFA letterhead. Since MIF and thus IDFA gets tons of money from mandatory assessments, does that free up some additional money to pay Alan Rosenfeld to write reports attacking the Compact or additional money to pay William Wasserman to lobby against the Compact?

A list of the corporations that provide money to IDFA, MIF, and Public Voice would probably stun most dairy farmers who are trying to make a living through hard work.

I am going to call for an investigation of these cozy arrangements with dairy lobbyists, USDA and industry front groups. These front groups who oppose the interests of dairy farmers should not control funds generated by mandatory assessments.

A few days ago in the RECORD I addressed issues surrounding the intended extension of the Northeast Interstate Compact in the omnibus spending bill. I am gratified that this omnibus bill contains, as did the bill we already sent to the White House, such an extension in the provision extending the time to finalize milk marketing order reform.

I am pleased that the Congress is not just going to provide additional income to corn, wheat, soybean and other farmers. Those farmers should be kept in business, but so should dairy farmers and the Compact does just that. Keeping the Compact in business until at least October 1, 1999, will greatly help dairy farmers in New England.

The Dairy Compact has worked as we said it would. It keeps dairy farmers in business in bad times by giving them additional income. It also helps stabilize farm and consumer prices for milk. I only wish that all dairy farmers could get the additional income that the Compact brings, but Congress so far has only consented to the Northeast Compact. Under the first six months of the Compact, OMB reported that ''New England dairy farm income rose by an estimated $22–27 million. . . .''

The Interstate Dairy Compact Commission, with 26 delegates appointed by the six governors, is authorized to determine a ''target price''—$16.94/cwt in this case. Under the Compact language, which is approved by the six states, any state can opt-out temporarily—until a later date that the state determines—or opt-in and receive that additional income for producers. The Compact is voluntary; it is up to each state whether to participate in any particular price regulation.

As I just pointed out in this respect, when prices are low the effect of the Compact is similar to the loan deficiency payments made under marketing loan programs in that, roughly speaking, producers get the difference between a ''capped'' target amount and the current price. When farm prices are high, no cash payments are made to producers under the Compact.

The reason the rate of loss of dairy farms in New England is now under control is that this additional income keeps their families on the farm. Dairy farmers are no less deserving than corn, wheat, soybean, or sorghum farmers. All farmers deserve to earn a decent income for their families.

I mentioned that news articles have focused on how in Connecticut and Vermont the rate of farm loss is much less than before the Compact went into effect. Before the Compact, OMB reports that New England suffered a ''20-percent decline'' in the number of farms with milk cows from 1990 to 1996. Now this horrible rate of attrition has slowed. I have supported reasonable efforts to keep family farmers in business throughout our country.

In addition, as I pointed out last week, the rate of milk consumption in New England is strong compared to the rest of the nation. Dairy farmers are making a decent living in New England and neighboring farmers are selling milk into the region to take advantage of the Compact.

There is indeed a touch of hypocrisy in this farm crisis. Some, including some at the U.S. Department of Agriculture, see the loan deficiency payments as a great solution. If prices drop below a target price, the farmers get the difference between their market price and this target price. If prices increase above a certain level, then the farmers cannot receive this cash payment.

As I said last week, the Northeast Interstate Dairy Compact is an example of this. The major benefit of the Compact is to provide income to farmers when milk prices are low—income is not provided to farmers when prices rise past a certain point. The amount of the payment a farmer gets depends on how far milk prices are below the target price. You could simply repeat those two sentences but substitute the word ''corn,'' ''soybeans'' or ''wheat,'' or whichever commodity, for ''milk'' and you have described how the loan deficiency payment system works.

But try to apply this system to milk prices and many Members of Congress and some in the Administration see dairy farmers as undeserving. Dairy is a major issue for ermont since more than 70 percent of all farm income is from dairy. This is why the Compact is crucial to us.

I am pleased that OMB reported that after an initial increase in prices at stores just as the Compact was implemented that: ''New England retail milk prices by December [the sixth month after implementation] returned to the historical relationship to national levels, being about $0.05 per gallon lower.'' According to recent A.C. Neilson Corporation marketing research data, U.S. gallon sales of fluid milk are down 1.8 percent compared to one year ago. New

England gallon sales of fluid milk, however, have decreased by only 0.7 percent. National sales of fluid milk have declined 1.1 percent more than New England sales of fluid milk.

The Connecticut Agriculture Commissioner Shirley Ferris reports, ''In June of 1997, the month before the Compact took effect, the average retail price for a gallon of whole milk was $2.72. This June, almost a year after the Compact took effect, the price for a gallon of whole milk is only $2.73. And the price of a gallon of 1% milk is even less expensive now than before the Compact—$.03 less per gallon than last June.''

In order to keep farmers in business, I think most consumers would be willing to pay a little more for milk. In order to keep fresh, local supplies of milk I think most consumers would be willing to pay a little more to keep their local producers in business.

Consumers know that if enough producers are forced out of farming, eventually milk prices could skyrocket. Countries around the world with inadequate numbers of dairy farmers pay huge prices for milk.

I am pleased that under the Compact, and as confirmed by the OMB study, it is the producers of milk, the farmers, who get the increase in income under the Compact. If anyone doubts that the dairy farmers in New England did not get increased pay checks, someone should randomly call them on the phone and see if they really got the checks. I certainly have not heard complaints that the paychecks were lost in the mail. Even farmers in New York, which has not yet joined the Compact, are even getting higher paychecks.

They are selling milk into the region to take advantage of the Compact. If Wisconsin or Minnesota switched places with New York State, farmers in Wisconsin and Minnesota would do the same—sell into the Compact region to make more income.

While I do not know for sure, I suspect that dairy producers in Wisconsin and Minnesota would like more income for all their hard labor. Vermont dairy farmers and neighboring New York dairy farmers sure do.

Except for this benefit for neighboring farmers living just outside the Compact region, OMB reported that ''New England has little effect on dairy markets outside its region, or on national prices or trends. . . . Its shipments outside the region in the form of cheese or milk are small.'' To provide some perspective, I also wanted to mention that OMB reports that in 1996, ''New England accounted for 2.93 percent of the Nation's milk production and 2.9 percent of its milk cows.''

Corporate opponents of the Compact have tried to argue that this was a fight between consumers and farmers. The OMB study proves that consumer prices are lower in New England than the average for the rest of the country. So that is a false argument.

The fight is actually between large manufacturers of milk products—large multinational corporations—and farmers. Manufacturers of any product, not just manufacturers of cheese or ice cream, want to buy their inputs as cheaply as possible.

So why was there ever a concern about consumer prices increasing in the Compact region? Prices should have never increased.

The Wall Street Journal and the New York Times discussed this in news articles about retail store price gouging. GAO raised the issue in 1991 and is looking at it now.

We do know that retail prices for milk are often more than double what farmers get for their milk—nationwide. Think about that.

Let's look at the time period just before the compact took effect—and pick Vermont as the sample state. As the Wall Street Journal pointed out, in ''Are Grocers Getting Fat by Overcharging for Milk?'' beginning in November 1996, the price that farmers got for their milk dropped by almost 25 percent—35 cents or so per gallon. Store prices stayed high, which locked in a huge benefit to stores selling to consumers. Thirty-five cents a gallon is a significant increase in benefits to retail stores.

Comparing November 1996 to June 1997, the price farmers received for their milk dropped 35 cents a gallon, and stayed low, but the prices that stores charged for milk stayed about the same.

I have always pointed out that dairy compacts can help reduce this retail store price inflation by stabilizing the price that farmers get for milk, thus reducing the need for stores to build in a safety cushion to protect themselves in case it costs more for them to purchase milk.

Without a compact, the price farmers get for their milk can vary significantly. These variations in price are passed through to stores by co-ops and other handlers. Yet stores prefer not to constantly change prices for customers so they build in a cushion. But this huge profit margin can be reduced by compacts which means that dairy compacts can both save consumers money and provide more income to farmers.

Unfortunately, the OMB study is based on very limited information from USDA. USDA only gave OMB price information from six stores in New England—and only in two cities where it was announced in press accounts, in advance, that retail prices would go up even though store and wholesaler costs had dropped 35 cents per gallon.

Even in light of this, OMB concluded that after six months, retail store prices in the compact region of New England were five cents lower than in the rest of the nation.

New England newspaper accounts of the implementation of the Compact were very interesting. For example, the July 1, 1997, edition of the Portland Press Herald from Portland, Maine points out that ''Cumberland Farms increased the price of whole milk by four cents but dropped the price of skim by a penny'' when the Compact was implemented.

Also, they note that ''At Hannaford's Augusta store, Hood milk—a brand-name product—was selling for $2.63 a gallon, while the Hannaford store brand was selling for $2.32.''

Also, ''Shaw's increased its price by about 20 cents a gallon in [parts of] the five other New England states but kept the price the same here [in Maine].''

The June 26, 1997, Boston Globe and the June 27, Providence Journal pointed out before the Compact was implemented that one of the chains signaled a price increase. A spokesman for Shaw's Supermarkets, Bernard Rogan, is quoted as saying that milk prices will go up next week.

The June 30, Boston Globe reported that, ''The region's major supermarkets are raising their milk prices 20 cents a gallon, ignoring arguments that their profit margins are big enough to absorb a new price subsidy for New England dairy farmers that takes effect this week.''

As OMB discovered after six months, this initial signaled increase was subjected to competitive pressures and that consumer prices in New England came down.

However, even if it took a slight increase in supermarket prices to keep farmers in business, I think that is worth it. If a lot of dairy farmers cannot make a living then eventually dairy prices will go way up, just as in a number of foreign countries.

Also, as I pointed out recently in the RECORD, studies of prices charged in stores in Vermont, for example, show that the most important factor in the price of milk is the brand and the store. In cities and towns in Vermont, the variation in price among stores was in the 50 cents to one dollar range. In other words, in the same town the price of a gallon of milk varied greatly and still does. These store variations, and variations through the use of store coupons, dwarf any possible impact of the Compact.

All other food expenditures dwarf how much income consumers spend on fluid milk. The savings consumers can achieve through buying ''on sale'' or house-brand items, or through using discount coupons, far exceed typical changes in the price of fluid milk. Only 3 percent of the average household's total expenditures on food go for fluid milk. This information is from an article titled ''Food Cost Review,'' 1995, from the Economic Research Service of U.S.D.A.

Farmers, consumers and processors all need fair prices. Processors should not have received huge profits at the expense of the other two. I will continue to monitor these abuses by MIF and IDFA detailed by the IG. I greatly appreciate the work of the Roger Viadero, the Inspector General, on this issue and on other issues he has handled. He is doing an outstanding job along with his staff at USDA.●

DEDICATION OF THE MICHAEL J. FITZMAURICE STATE VETERANS HOME

● Mr. JOHNSON. Mr. President, on October 2, 1998, South Dakotans honored one of their veterans with the dedication of the Michael J. Fitzmaurice State Veterans Home in Hot Springs. I believe this is a fitting tribute to a man who was willing to sacrifice his own life to defend the lives of his friends amidst the chaos of battle.

Michael Fitzmaurice served in Vietnam with the 101st Airborne Division at Khe Sanh. On March 13, 1971, American forces at Khe Sanh were engaged by North Vietnamese troops. During the assault, North Vietnamese sappers threw three satchel charges into a bunker defended by Michael and other airborne troops. Michael Fitzmaurice was able to throw two of the explosive charges out of the bunker, and then showing no regard for his own life, used his flak jacket to smother the third charge. Despite receiving severe wounds, Michael Fitzmaurice refused medical attention and continued to defend the bunker from the North Vietnamese assault. Because of his unselfish action, Michael was awarded the Congressional Medal of Honor for his heroism and for saving the lives of his fellow soldiers.

Today, Michael Fitzmaurice works at the Sioux Falls Veterans Medical Center after serving twenty years with the South Dakota National Guard. He now lives in Hartford, South Dakota with his wife Patty and his children. The veterans home dedicated in Michael's honor will serve as a residence for veterans who saw combat. The facility also has a nursing home and a place where veterans can receive needed medical attention.

From the battlefields of Lexington and Concord, to the beaches of Normandy, and to base camps such as Khe Sanh, our nation's history is replete with individuals who, during the savagery of battle, were willing to forgo their own survival not only to protect the lives of their comrades, but also to defend a people they did not know. Americans should never forget these men and women who served our nation with such dedication and patriotism.

Mr. President, I offer my congratulations and gratitude to Michael and his family on this profound dedication. The Michael J. Fitzmaurice State Veterans Home will stand not only as a testament to Michael Fitzmaurice's bravery and leadership, but will remain a constant reminder of South Dakota's continued dedication in serving the needs of our veterans.●

RETIREMENT OF COLONEL WILLIAM L. BERLAND

● Mr. DOMENICI. Mr. President, I rise in honor of the distinguished military career of Colonel William L. Berland. Colonel Berland is retiring on November 13, 1998, after completing 27 years of faithful service to his country. He is currently stationed at Kirtland Air Force Base, New Mexico and plans to make New Mexico his new home. We thank the great State of Montana for sending Colonel Berland to the service of this country, and we welcome him as a new New Mexico resident. Most importantly, we thank Colonel Berland for the unselfish service he gave to America and wish him and his wife Debbie the best in their retirement.●

THE 105TH CONGRESS AND Y2K

● Mr. MOYNIHAN. Mr. President, as we wind up the 105th Congress, I would like to commend Senator BENNETT and the Special Committee on the Year 2000 (Y2K) Technology Problem for their work in addressing the computer problem. The Committee has done a fine job in looking at the impact of Y2K on all aspects of our critical infrastructure: the utilities industry, the health care sector, financial services, transportation, government, and businesses. The Committee should also be applauded for the role it played in formulating and passing S. 2392, The Year 2000 Information and Readiness Disclosure Act. As an original cosponsor of this piece of legislation, I am delighted to see that the President signed it into law yesterday. This bill should help us ameliorate the Y2K problem. I say well done to the Committee for all of the work it has done in such a short amount of time.

Almost two and a half years ago, in the 104th Congress, I sounded the alarm on the computer problem. On July 31, 1996, I sent President Clinton a letter expressing my views and concerns about Y2K. I warned him of the ''extreme negative economic consequences of the Y2K Time Bomb,'' and suggested that ''a presidential aide be appointed to take responsibility for assuring that all Federal Agencies, including the military, be Y2K compliant by January 1, 1999 [leaving a year for 'testing'] and that all commercial and industrial firms doing business with the Federal government must also be compliant by that date.''

January 1, 1999 is quickly approaching. Progress has been made on the Y2K problem. The public and private sector are starting to give it the attention that it deserves. But much work remains to be done. As we head into the 106th Congress, we must continue to work on this problem with dedication and resolve.

Historically, the fin de siècle has caused quite a stir. Until now, however, there has been little factual basis on which doomsayers and apocalyptic fear mongers could spread their gospel. After studying the potential impact of Y2K on the telecommunications industry, health care, economy, and other vital sectors of our lives, I would like to warn that we have cause for fear. For the failure to address the millennium bug could be catastrophic.●

TRIBUTE TO NEIL TILLOTSON

● Mr. GREGG. Mr. President, Neil Tillotson is one of those rare individuals who has accomplished a great deal in his professional and personal life, but has remained rooted to his origins in the Great North Woods of New Hampshire. On the occasion of his 100th Birthday which will be on December 16, 1998, I rise to salute his remarkable achievements.

Neil Tillotson's life is emblematic of New Hampshire's values of hard work, independence, and community spirit. A lifelong resident of the North Country, he has been a trailblazer in the latex industry, inventing many new products, and for the last 67 years, he has been the most prolific manufacturer of latex products in the world. Through his business activities, he has provided jobs for many people in the North Country, and products that improve the standard of living for millions of Americans and people around the world.

But his business acumen is only part of what makes Neil Tillotson special. He also holds the unique honor of being the first person to vote in New Hampshire's first-in-the-nation Presidential primary, and thus, in the nation. Dixville Notch, where the Presidential primary voting begins at midnight on election day, has been home to the Tillotson family for many years, and as patriarch of Dixville Notch, Neil Tillotson has been the first person to cast his vote since 1960.

New Hampshire takes its politics seriously at all levels, from the school board to the Presidential primary, and Neil Tillotson has been a serious player for many years. Since we don't yet have a professional sports team, I guess you could say politics is our state sport, and without Neil Tillotson's support, I might be sitting on the bench watching, instead of playing on the field.

Politics runs deep in many New Hampshire towns and I think that is so because we have a strong sense of community that is expressed through our participation in the representative process. It has a way of bringing us together, and Neil Tillotson has been an example to many people, prompting them to get involved in the political process.

Over his 100 years, Neil Tillotson has been a participant in some of the great events of the 20th Century, including service in World War I as a member of General Pershing's cavalry and in the triumph of capitalism over communism.

I turned 50 myself just a few years ago, and I can only hope to live as long and contribute as much to our state as Neil Tillotson. It is a rare person who lives to be 100 years old, but for someone like Neil Tillotson, like so many other things, he makes it look easy. Neil Tillotson is a remarkable person, and Kathy and I wish him the very best on this momentous occasion.●

TRIBUTE TO GENE CALLAHAN

● Mr. DURBIN. Mr. President, at the beginning of the 105th congressional session, a close friend of mine, Gene Callahan, retired and moved back to our home state of Illinois. Prior to Gene's retirement, he served as the director of government relations for Major League Baseball here in Washington, DC. Many of you may remember Gene as former U.S. Senator Alan J. Dixon's (IL) chief of staff. Gene and I have been in politics for many years beginning with the Illinois Democratic Party and working with my predecessor here in the Senate, former U.S. Senator Paul Simon when Senator Simon was the Illinois Lt. Governor, some thirty years ago.

Gene loves the game of baseball so I thought this would be the perfect opportunity to wish my dear friends, Gene and Ann Callahan, the best. I thought it fitting that the Callahans return to the great state of Illinois during this exciting baseball season and the home run chase between Mark McGwire and Sammy Sosa. In fact, Gene and Ann's son, Dan, is the head baseball coach at Southern Illinois University in Carbondale. I know firsthand, that Gene will stay involved with baseball, and rest assured, I will call on him for political advice from time to time.

As the baseball season draws to a close with the World Series, I want to thank everyone connected with Major League Baseball for a great summer. The home run chase with McGwire and Sosa was a baseball fan's dream. It brought a sense of what's good about America to the forefront. America can't wait for spring training!●

OLDER AMERICANS ACT

● Mr. MCCAIN. Mr. President, I come to the floor today with a sense of disappointment and frustration that Congress is adjourning without reauthorizing the Older Americans Act. Our senior citizens deserve better.

In January, our Nation will enter the fourth year without an authorization for Older American programs which provide a multitude of support services for our Nation's elderly including: community-based long-term care, transportation, legal services, adult day care, ''Meals on Wheels'' and senior citizens centers. For our Nation's Indian tribes, it is the cornerstone of programs for their elderly and is the only federal legislation that allows them to directly plan for the needs of their elderly based on their culture and traditions.

My personal concern about the lack of authorization for the OAA programs was heightened while traveling around my home state of Arizona. I continually hear from seniors concerned that the OAA programs are at serious risk because of Congress' failure to reauthorize them. They are particularly disturbed that funding for the programs has not been keeping up with inflation, thereby jeopardizing important programs for the most vulnerable elderly.

I recognize the commitment of the Senate Subcommittee on Aging to produce a reauthorization bill, but I became concerned when the committee did not produce an OAA bill by July. It became clear to me that the limited time left in Congress' schedule would prevent the committee from completing their work and moving a bill through the full legislative process.

This is why, on July 13, I introduced S. 2295, the Reauthorization of the Older Americans Act. I simply could not allow another year to go by without reaffirming Congress' support and commitment to older Americans.

This bill would reauthorize the OAA using the same language from the 1992 reauthorization which expired in 1995. The bill would extend the OAA until 2001, giving the Subcommittee on Aging and Congress sufficient time to thoroughly evaluate these programs and reconcile differences on the reforms needed if we are to ensure the relevance of the OAA, continue to meet our obligations to our current seniors, and be more adequately prepared to meet the needs of future seniors.

Sixty-seven of my colleagues agree that Congress should reauthorize the OAA this year and alleviate the fears of our Nation's senior citizens who believe that these programs are in jeopardy. It is disheartening that a bill with such broad bipartisan support was prevented from being implemented due to the objections of a small minority. I am confident that their concerns could have been addressed even as we moved forward on a short-term extension.

I remain committed to resolving this issue next year and will work with Senators GREGG and MIKULSKI to develop a bill that strengthens and more effectively defines the OAA programs for our Nation's elderly. It is imperative that we continue our efforts on behalf of older Americans and pass a bill which recognizes their unique needs and addressed those needs by reauthorizing the programs of the Older Americans Act.●

PIERCE J. GERETY, JR.

● Mr. DODD. Mr. President, I rise today to pay tribute to a friend and a great humanitarian—Pierce Gerety, Jr., whose life was tragically cut short last month when Swissair Flight 111 crashed off the coast of Nova Scotia. Pierce Gerety, Jr. was a remarkable man, and he will be dearly missed.

Pierce Gerety dedicated his entire life to humanitarian causes. The nephew of two priests, Pierce once aspired to enter the priesthood himself. After graduating from Yale, he went to Paris to study theology and philosophy at the Institute Catholique, where he found time to set up a soup kitchen. However, he soon changed his mind about becoming a priest when he met his future wife Marie de la Soudiere.

After he was married, he and Marie went to India to work for Catholic Relief Services. He returned to the United States in 1968, and became a social-service case worker in New York City. He then attended Harvard Law School and after graduating in 1971, he worked as a legal aid and civil rights attorney. In 1980, he began his career in refugee work in Thailand with the International Rescue Committee, and, in 1982, he went to work at the United Nations. He became a legal officer at the headquarters of the U.N. High Commissioner in Geneva, and he eventually became a deputy director to the U.N. High Commission for Refugees, but he always longed to be in the field working with those who needed help.

He took on a number of difficult assignments, helping refugees in crisis situations in the Philippines, Pakistan, Somalia, Sudan, Congo, Rwanda and Burundi. In fact, his colleagues have said that Pierce Gerety put himself in more dangerous situations than any other person in the refugee field. When a warlord in Somalia kidnapped some humanitarian aid workers, Pierce Gerety went into that warlord's armed camp and negotiated their release. Last year, he and other officials pled with the Congolese rebel leader Laurent Kabila to end the slaughter of Rwandan refugees.

It is ironic that this man, who repeatedly placed himself in harm's way to protect refugees around the globe, would lose his life in such a senseless accident.

Pierce Gerety, Jr. brought an uncommon intelligence, courage, and devotion to his work. He has touched the lives of countless individuals in a positive way. And his impact is not only felt by refugees around the globe, it is felt by his many peers and friends whom he inspired to do more in their own lives to help persons in need.

He is survived by his wife Marie and his three children Sebastian, Pierce, and Maeve. He is also survived by his mother Helen, and his three brothers Tom, Peter, and Miles. I offer my heartfelt sympathies to them all.●

SECRET SERVICE SPECIAL AGENT CARL TRUSCOTT

● Mr. GREGG. Mr. President, I'd like to take this opportunity to express my thanks and deep appreciation for the work and dedication of Secret Service Special Agent Carl Truscott, who was detailed to the Commerce, Justice, State, and Judiciary (CJS) Subcommittee on Appropriations during the 105th Congress.

Nearly two years ago, Carl joined the Subcommittee staff as a detailee from the Secret Service. As a seventeen year veteran of the agency, and a member of three Presidential details, Carl was brought on to lend his extensive law enforcement expertise and knowledge to the appropriations process. As the lead staffer handling the appropriations for the Department of Justice,

the DEA, and the FBI, he acted as an effective liaison between myself and the agencies. Carl helped reconcile the needs of the Justice Department with my visions for the future of federal law enforcement, often working late nights to hammer out compromises that could make all sides happy. This was a difficult task for anyone to take on without prior knowledge or experience on the Hill, but Carl handled his responsibilities like an old pro. I could not have developed such a close relationship with the offices of the Attorney General, the FBI Director, and the DEA Administrator without Carl's input and commitment to making the connection work.

Special Agent Truscott will be leaving the Hill to go back to the President's detail starting next week. I know that the Appropriations Committee, the Department of Justice, and my personal staff will all miss Carl's presence in the appropriations process next year. It was a pleasure working with him over the past two years and I wish him luck in his career in the Secret Service and in his future endeavors.

I'd also like to express my appreciation for the work of Dereck Orr, who was detailed to Senator HOLLINGS' CJS Subcommittee staff from the Department of Justice's Office of Community Oriented Policing Services. Dereck has been with the CJS Subcommittee staff for the past year and has contributed important input on law enforcement issues to both sides of the Subcommittee. He has been an asset during the long, difficult appropriations process this year and I join Senator HOLLINGS in praising Dereck's perseverance and commitment. I wish him luck when he returns to the Justice Department and look forward to working with him in the future.●

OECD SHIPBUILDING AGREEMENT

● Mr. BREAUX. Mr. President, I rise to announce that I look forward to working with my colleagues in the next Congress to pass legislation to implement the OECD Shipbuilding Agreement, an international agreement that will finally allow our commercial shipyards to compete on equal footing with those of our foreign trading partners.

With the hard work of Members both in the House and Senate, especially my friend the Majority Leader, we were able to craft implementing legislation that was passed and reported out of both the Senate Commerce Committee and the Senate Finance Committee and had the strong support of the Department of Defense. If a floor vote had been possible this Congress, I am confident we could have passed this important legislation and the President would have signed it into law.

Unless we as a country are content to concede the international commercial shipbuilding market to our trading partners and rely instead only upon the limited and protected U.S. Jones Act market for commercial shipbuilding orders, we must ratify and implement the OECD Shipbuilding Agreement.

So again, I look forward next Congress to working with the Majority Leader, Finance Committee Chairman ROTH, Commerce Committee Chairman MCCAIN, and my Democratic and Republican colleagues, including the few Members who remain opposed to the Agreement, to implement the OECD Shipbuilding Agreement for the benefit of the country and our U.S. entire commercial shipbuilding industry.●

● Mr. LOTT. I share the sentiments of my colleagues from Louisiana. I am frustrated over the Senate's inability to complete this legislation. Indeed, he and I have championed this bipartisan effort for some years now. I will resume our joint efforts early in the next Congress to secure final ratification of this critical Agreement.

U.S. participation in the OECD Shipbuilding Agreement and the elimination of foreign subsidies is essential. U.S. commercial shipyards cannot successfully compete with the treasuries of other nations. Of course, our implementing legislation must also make it clear that our vital Jones Act interests and our national security prerogatives will never be compromised.

The implementing legislation developed in this Congress represents a consensus product with input for many Senators who carefully weighted and balanced these important objectives of OECD. The legislation was reported by the Finance Committee on two separate occasions and by the Committee on Commerce, Science and Transportation on yet another. It enjoys the strong support of both Chairman and vast majority of their Committees.

Let me be clear: Navy ships are unequivocally exempted from coverage by this Agreement in fact this legislation gives unlimited authority of the Secretary of Defense to exempt from coverage of any other vessels deemed necessary for national security purposes.

Similarly, extraordinary steps were taken to protect our Jones Act. That is why this legislation received the strong endorsement from the vast majority of the Jones Act shipbuilding and ship operating companies.

On a final note, I hope our OECD Shipbuilding Agreement parties will take note of my intention and commitment to move this legislation early next before taking any action on their own which might forever compromise this historic opportunity to rationalize the global shipbuilding market.●

HONORING VETERANS

● Mr. SPECTER. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I would like to speak for a moment on the importance of our veterans and their service to this nation. As you know, November 11th is Veterans Day, the day we honor those who have served in the United States Armed Forces.

For over two hundred years, the democratic form of government that so many of us take for granted has survived and prospered in an increasingly dangerous world. The fulfillment of our Declaration of Independence's tenets of life, liberty, and the pursuit of happiness was achieved through the genius and drive of our main resource—our citizens. But that genius and drive could never have occurred without the sacrifice and security provided by those who bore the brunt of our defenses and even gave their lives to this cause. From the early days of our isolated republic to today's challenges as a global leader, this country has trusted and relied on the unwavering protection provided by our men and women in military uniform.

Veterans Day provides us an opportunity to reflect upon and recognize those who have served in the world's finest military. We will honor those who have fought in wartime and protected our nation in peacetime; those who have served on the battlefields of the world and in the communities that make up this vast and prosperous nation. As Abraham Lincoln so eloquently articulated in his Gettysburg Address, it is our solemn obligation ''to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced . . . and that government of the people, by the people, for the people, shall not perish from the earth.'' We should remember these powerful words and continue to do the best that we are able to meet the expectations of those who have guaranteed our freedom.

I have long been impressed with so many veterans' commitment to public affairs long after their military service. My frequent meetings with veterans in the Commonwealth of Pennsylvania reinforces my view that they are America's finest citizens whose duty did not end with active military service. They remain continued supporters and activists in reminding the U.S. Congress and, indeed, the American people of the need for a strong national defense. It is this lifetime commitment to service that should be recognized on Veterans Day.

Since the Senate is not expected to be in session on Veterans Day, I would like to extend my appreciation to all veterans of the United States Armed Forces. To quote Abraham Lincoln again, during his second Inaugural Address he said, ''let us strive on to finish the work we are in; . . . to care for him who shall have borne the battle, and for his widow, and his orphan. . . .'' November 11th will be a day of recognition to the service of America's 25 million veterans. I am certain that my colleagues will join me in thanking all veterans for their remarkable legacy of commitment to honor, duty, and country.●

TRIBUTE TO CARL TRUSCOTT

● Mr. HOLLINGS. Mr. President, I would like to take this opportunity to honor and thank an individual who has

been a tremendous asset to the Commerce, Justice, State Appropriations Subcommittee for the last two years. That individual is Carl Truscott, a United States Secret Service agent who has worked with Senator GREGG's committee staff in preparing the fiscal year 1998 and 1999 CJS Appropriations bills.

Carl has been responsible for making policy and fiscal recommendations on the budgets of many of the Department of Justice programs. He's done this with integrity, an eye for detail, and a true bi-partisan spirit. Paramount to Carl's disposition is his belief in doing a good, thorough and fair job, which translated into him working closely with my staff and the Justice Department, ensuring that everyone was on the same page in regard to determining what would be best for the Department of Justice, for the interests of our States, and for the interests of our Senators, regardless on which side of the aisle they sit.

I'm sure Carl is moving on to bigger and better things—and I'm also certain he will earn the genuine appreciation for his hard work that he has won time and again here in the Senate. Carl will be missed by this Subcommittee. I wish him all the best in his future endeavors, and thank him again for all of his excellent work for the Commerce, Justice, and State Subcommittee.●

A TRIBUTE TO PETER J. CARRARA—THE BEST OF THE BEST

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a good neighbor and a man who was the best of the best. His name is Peter J. Carrara and he passed away suddenly on August 20th. However, he will be remembered by everyone who knew him as the epitome of good humor and optimism. Or as coworkers put it, ''If you didn't like Peter, you didn't like life.''

Peter was a man who loved his country and dreamed of serving the US Navy since he was a child. He fulfilled his dream, served with honor, and became a highly decorated officer. In fact, he retired in 1992 with the rank of Senior Chief Yeoman on a Ballistic Missile Nuclear Submarine, one of the greatest accomplishments a Navy man can achieve. For his service he was awarded the National Defense Service Medal, five Navy Achievement medals, five Good Conduct Medals, Enlisted Submarine Breast Insignia, and the SSBN Deterrent Patrol Insignia. Following his retirement, he held several jobs, including second constable for the Town of Shrewsbury for the last four years of his life.

In addition to serving his country, Peter served his community in many ways. He was a member of the Shrewsbury Community Church, Rutland Fleet Reserve Association, American Legion Post 31, the Shrewsbury So-Birds, and a volunteer fireman. He would approach any situation, especially challenging ones, with a calmness and strength which was reassuring to everyone around him. To quote his fellow town constable, ''He could approach hostile people as if he knew the angel of God was on his shoulder.''

As I read through the eulogies given and letters written about Peter, I was struck by how many people mentioned his kindness, caring, and compassion for others. Friends praised and remembered his big heart and giving spirit. For example, when he worked for UPS, he stayed late one Christmas Eve so families would have their presents for the next day. He was devoted to his friends and family and would do anything for them. When they were sick in the hospital, he would visit with them and bring them great comfort.

In fact, his ability to comfort and bring a smile to people's face will be how Peter is remembered. My wife Liz said, ''You could never feel down around Peter. His smile and warmth picked your spirits up and you went on your way smiling.'' But the biggest tribute came from a childhood friend. ''You were my hero. I really enjoyed growing up with you, and today you are still my hero.''

Farewell, Peter. You will truly be missed.●

RECOGNITION OF THE EFFORTS OF THE PEOPLE OF MASSACHUSETTS TO ASSIST THE CHEYENNE RIVER SIOUX TRIBE

● Mr. JOHNSON. Mr. President, I want to take the opportunity today to recognize the kind and generous people of western Massachusetts who donated exercise equipment to the Cheyenne River Reservation community in my home state of South Dakota.

The participating YMCA's of Greenfield, Springfield, Holyoke, Northampton and Westfield Massachusetts organized a month long drive that collected 80 pieces of exercise equipment ranging from treadmills to exercise bikes. Robert Sunderland, Vincent Olinski, Harry Rock, Suzanne Walker, Stephen Clay, Kurt Kramer, and Mark St. Pierre all worked together to make this project a reality. Their vision, tireless dedication, and proactive efforts to mobilize the people of western Massachusetts should not go unnoticed. Additionally, I would like to recognize Keith Eichenholz of my staff, a native of Greenfield Massachusetts himself, for recognizing the effort of these participating YMCAs, as well as the needs of Indian country in South Dakota.

As my Senate colleagues know, there are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest Native American populations in this country. At the same time, South Dakota has three of the ten poorest counties in the nation, all of which are within reservation boundaries. The severe poverty within these reservations makes it extremely difficult to secure valuable resources that can be used to fight the grave health situation plaguing the American Indian communities.

The contributions of the western Massachusetts YMCAs will help overcome these alarming conditions. Native Americans die at younger ages than the general population: 13 percent of Indian deaths, compared to 4 percent of deaths for all races, occur before age 25. Tuberculosis as a cause of death for Native Americans is 4 times the national mortality rate for this disease, and the Native American mortality rate for diabetes out-paces the national average by 139 percent. Additionally, a 1997 Harvard/Centers for Disease Control study on life expectancy found that the lowest life expectancy in the nation for both men and women, including inner city populations, exists in the Indian population and are the worst rates of any nation in the western hemisphere except Haiti. American health care and medical science are far too advanced to allow such statistics to persist.

Time and time again, regular exercise has been proven effective in reducing the occurrence of heart disease, diabetes, and early deaths. The five western Massachusetts communities will help provide the Cheyenne River Reservation community with the opportunity for a healthier lifestyle at practically no cost. Their contribution deserves recognition, and I thank them for all of their help.

Throughout my service in Congress I have worked with Indian tribes to improve the quality of life on this nation's Indian reservations. I am glad that I have the generous people of Greenfield, Springfield, Holyoke, Northampton and Westfield Massachusetts as allies is this courageous effort.

Again, I would like to offer my sincere gratitude for their collaborated effort, and wish them continued success in future endeavors.●

125TH BIRTHDAY OF ROSWELL, NEW MEXICO

● Mr. DOMENICI. Mr. President, I am proud to pay tribute to one of the most resilient cities in America—Roswell, New Mexico. One-hundred and twenty-five years ago, the Roswell Post Office opened its doors and a town's identity was established. Since that time, the residents of Roswell have displayed a hearty ''can-do'' attitude as they adapted to the constantly evolving economic climate of the region.

Roswell has served as an economic and educational hub for southeastern New Mexico. It has been a center for sheep ranching, cattle driving, space exploration, and military aviation. Today, Roswell supports a thriving dairy industry and, because of its warm winters and relaxed pace, it has become a popular retirement destination for senior citizens across the country. Roswell is the site of the New Mexico Military Institute, one of the finest military preparatory academies in the

country, and many noteworthy figures such as Pat Garrett, Roy Rogers, Roger Stauback, and Nancy Lopez have called it their home.

Roswell has come a long way from its humble beginnings as a supply post. Throughout its history, it has exemplified the feisty optimism so typical of the American spirit. Roswell's 125 years of history and development merits a fitting celebration and recognition. I ask that the article entitled ''Roswell, Then and Now, An Overview'' which appeared in the August 16, 1998 Roswell Daily Record be printed in the RECORD.

The article follows:

[From the Roswell Daily Record, Aug. 16, 1998]

ROSWELL THEN AND NOW: AN OVERVIEW

(By Elvis E. Fleming—City Historian)

Roswell's 125th birthday celebration actually commemorates the opening of the Roswell post office Aug. 20, 1873. While the settlement predated the post office by three of four years, there are no records to pin down exactly when the town was actually founded. It was called ''Roswell'' starting in the spring of 1872, but it took a while for the name to catch on.

Mescalero Apaches had roamed this area for a long time, but the Pioneer Period in the history of Roswell and Chaves County actually started when the first permanent residents, who were Hispanic farmers and sheep ranchers, came about 1865 to start several area settlements, including Rio Hondo—that part of Roswell that today is called ''Chihuahuita.''

The Anglo cattlemen from Texas soon followed. Charles Goodnight and Oliver Loving blazed the Goodnight-Loving Trail in 1866. John Chisum soon settled down here to become the ''Cattle King of the Pecos.'' By the mid-1870s, he was the largest cattle producer in the United States.

The area around the confluence of the Rio Hondo and the Pecos River made an excellent spot for cattlemen to rest their herds. There was no supply post between Seven Rivers and Fort Sumner, so James Patterson built a little adobe trading post in what is now the 400 block of North Main Street. The future Roswell was born when Van C. Smith showed up about 1869 or '70 and enlarged Patterson's trading post into a hotel and built a store nearby to cater to the needs of drovers on the Goodnight-Loving Trail.

Smith identified his place with the nearby Hispanic settlement of Rio Hondo. In the spring of 1872, however, he decided he needed a more exact address, so he started calling his place ''Roswell'' after his father. The Roswell post office operated in Smith's store 125 years ago, Aug. 20, 1873, and he was the first postmaster. He was too much of a gambler to develop the town. That job fell to Capt. Joseph C. Lea, ''The Father of Roswell.''

The Lincoln County War was going on about the time Capt. Lea arrived in 1877–78, but he pretty well kept it away from Roswell. The Army sent the now famous ''Buffalo Soldiers'' to protect the town. It was up to another Roswell man, Pat Garrett, to become sheriff of Lincoln County, put an end to the violence and hunt down Billy the Kid.

The Developmental Period in Roswell and Chaves County's history dates from around 1890. Chaves County was created in 1889 and organized in 1891, the town of Roswell was incorporated in 1891, and artesian water was discovered in town in 1890. Also, New Mexico Military Institute was established in 1891.

Before 1894, Roswell claimed to be farther from a railroad than any other town in the United States. The arrival of the Pecos Valley Railway changed that in 1894, which was an important turning point in the area's history—especially after it was extended to Amarillo in 1899.

J.J. Hagerman was the one most responsible for both railroad developments. The impact of the railroad on the economic expansion of the city and county cannot be overstated. Many new settlers arrived, which meant new growth for Roswell—the first bank, the first newspaper, many other new businesses, the first schools and the first churches.

The Maturing Period in the history of Roswell and Chaves County started around 1903 when Roswell was reincorporated as a city. Over the next several years, utilities and paved streets were developed. The Carnegie Library and the Roswell Country Club were established. The Sisters of the Sorrowful Mother came to Roswell and started St. Mary's Hospital in 1906.

New Mexico finally became a state in 1912. In preparation for that, Chaves County built a new courthouse that was one of the largest buildings in the Southwest and still is one of the most beautiful public buildings in the state. Roswell's first airport was built in 1929, and the first radio station went on the air in 1931—KGFL.

Roswell has been connected with several world-class athletes and entertainers. In the 1920s, local rancher/cowboy Bob Crosby became the ''King of the Cowboys'' when he won the Roosevelt Trophy for being world champion rodeo cowboy three years.

Local musicians Louise Massey and the Westerners got their start here in 1928 and went on to become big country/western stars. Roy Rogers, the movies ''King of the Cowboys,'' used to hang out here back in the 1930s. His first wife was a 1932 graduate of Roswell High School, Arline Wilkins, whom he married here in 1936. Singer/composer John Denver was born at St. Mary's Hospital in Roswell in 1943.

Clear skies and wide open spaces attracted Dr. Robert H. Goddard, the ''Father of Modern Rocketry,'' to Roswell in the 1930s. Here, he made man's first attempts to explore outer space.

The Great Depression and the New Deal of the 1030s visited Roswell, and there are a number of monuments to show for it. For example, the Civilian Conservation Corps (CCC) boys built Bottomless Lakes State Park—the first state park in New Mexico. The Works Progress Administration (WPA) built City Hall, Cahoon Park and Bitter Lake National Wildlife Refuge. The WPA also built schools, DeBremond Stadium and the Roswell Museum and Art Center.

The museum opened in 1937 and has continued to grow. One of its most important collections is the Peter Hurd paintings. Peter Hurd, who was born in Roswell in 1904, was the greatest native son artist of New Mexico.

The Military Period in Roswell's history dates from the early 1940s, to 1968, but Roswell has always done its part in our nation's military conflicts. National Guard Battery A, one of the oldest and most honored outfits in the state, had gone to the border back in 1916 when Pancho Villa invaded New Mexico; they also went to France in World War I, and were a major part of the infamous Bataan Death March in the early stages of World War II.

Roswell's climate brought the U.S. Army here in the early 1940s to establish the Roswell Army Air Field, which after World War II became the home of the world's only atomic warfare unit, the 509th Bomb Wing and the ''Enola Gay'' B–29 bomber. The Orchard Park prisoner of war camp brought 4,800 Germans, some of whom made life-time friendships here and others came here to live after the war. New Mexico Military Institute in every war has produced a large portion of officers for the military.

In July 1947, Lt. Walter Haut of the Roswell Army Air Field told the Roswell Daily Record—and the world—that the Army had captured a flying saucer that crashed on Mac Brazel's ranch near Corona, 75 miles north west of Roswell. Maj. Jesse Marcel saw the wreckage and said it was not of this world, but Gen. Roger Ramey insisted it was only a weather balloon!

You couldn't tell that to Glen Dennis and others who not only saw the strange debris, but also saw some little gray bodies. Apparently, the federal government has been covering up the ''Roswell Incident'' story ever since. The International UFO Museum and Research Center is dedicated to learning the truth and has become Roswell's No. 1 tourist attraction.

In January 1948, Roswell Army Air Field became Walker Air Force Base, an important link in the Strategic Air Command. In 1960 it was designated as a support base for a squadron of Atlas ICBMs. A dozen missile sites were built in a 25-mile radius of Walker. They were completed by the end of 1962, then deactivated by March 1965.

The deactivation of the missile squadron was the first blow to the military economy of Roswell. The main calmaity was the closure of Walker, which took place June 30, 1967. Parts of Roswell became ghost towns as thousands made their exodus. Roswell's economy collapsed.

The present Industrial Period started in 1967 with the conversion of Walker Air Force Base into the Roswell Industrial Air Center (RIAC). The former air base has seen the manufacture of many products, from fireworks, lollipops and Levis jeans to mobile homes and city buses—first by Transportation Manufacturing Corps and more recently by NovaBUS.

Roswell Community College moved to the RIAC and used many of the former Air Force buildings for expanded vocational and academic-transfer programs, changing its name to Eastern New Mexico University-Roswell. The college added several new buildings over the years, and in the 1980s built a beautiful new campus for the booming school.

An auxiliary landing strip several miles south of Walker was converted to civilian use as well, first as a school for retarded boys and as a minimum security prison—Roswell Correctional Center—since 1978.

Other major economic developments in Roswell since 1967 include the influx of retirees, attracted by low living costs and warm weather. THe town has a continued a steady and prosperous growth. Many national chains have branches in Roswell, some of which have been around for a long time. Numerous others have come in the 1990s, so that national names are represented among the department stores, fast-food restaurants and motels. The trend toward modernization of business in Roswell was boosted by the opening of the Roswell Mall north of town in the 1980s.

Over the years, several locals have achieved national fame on the fields of sport: such as Tom Brookshier, Pete Jaquess, Chick Smith, Nancy Lopez and the 1956 Little League World Champions. Dallas Cowboys football great Roger Staubach played at NMMI for a year in the early 1960s.

Roswell, on the 125th birthday of its post office, is a city approaching 50,000 in population. There is no larger city within a radius of about 200 miles, so Roswell serves as a hub for southeast New Mexico. It is still small enough that traffic is not a big problem; and the business, educational, medical,

legal, religious, fraternal and industrial communities provide for virtually all the needs of the folks in Roswell and the area.

The next 125 years will no doubt see similar developments—growth, problems, ups and downs—as these years since 1873 have witnessed. But the good folks of Roswell will be proud to live here and enjoy being a part of the Land of Enhancement!●

VERMONT HOME HEALTH CARE

● Mr. LEAHY. Mr. President, it has been a long road to get us where we are today to a modification of the unfair Medicare home health interim payment system (IPS) reimbursement that passed last year as part of the Balanced Budget Act (BBA). Making sure that this change was passed this year was not about politics but about helping those with the most to lose, the seniors and disabled Americans who rely on home health care.

At the beginning of this year, when I discussed with my colleagues a problem with the ''Medicare Home Health IPS,'' I received a lot of blank stares. The rising level of understanding about this problem—and the rising level of support to fix it—was a commendable and effective team effort on the part of home health beneficiaries and their care givers. They were able to explain to their representatives in Congress why the short-term tinkering in health policy that created the IPS was unfair and was done with too little thought for the consequences.

The IPS passed last year sought to reduce overall spending on home health care by eliminating fraud, waste and abuse to preserve the benefit for those who truly need it. But as Vermont providers know all too well, there were unintended consequences of this proposal that severely harmed their ability to provide care to the most vulnerable populations.

Under this faulty system, Vermont's 13 non-profit home health agencies predicted millions of dollars in reduced payments this year while already boasting the lowest average Medicare costs in the country. The skewed thinking behind the IPS created a system under which Vermont was punished for its low-cost, efficient provision of home health care while high-cost, inefficient providers were rewarded.

A year ago this month, my office began to receive phone calls and letters from Vermont home health beneficiaries and their care givers who were beginning to understand what the overwhelming impact of the new IPS would be. In an effort to raise this issue to the level of where we are today, concerned senators and representatives began the drum beat of highlighting this as a critical issue that must have relief this year.

From the beginning there was a lot of reluctance by the congressional leadership to take up any Medicare legislation this year.

The home health agencies in my state were relentless in their efforts to continue to call attention to the fundamental unfairness of the Medicare IPS that punished their prudent and efficient provision of service to Vermonters.

My staff and I met with home health officials, and we agreed early on that any and all pressure that we could put on the Administration and other members of Congress would be critical to ensuring the ability of home health care providers to meet the needs of Vermonters.

Several bipartisan Senate bills were introduced over the past year, the first being one sponsored by Senators KENNEDY, KERRY, JEFFORDS and myself. We knew at the time that this was not the perfect answer but that we needed to start a process to get the ball rolling.

Subsequently, several other bills were introduced which I also cosponsored, most notably by Senator COLLINS and another by Senator GRASSLEY. I also joined Senator BOND in offering an amendment in the Appropriations Committee which we withdrew once we were assured that the Republican leadership was taking this issue seriously and would deal with it separately. My colleague from Vermont, Senator JEFFORDS, has pushed hard for this solution as a member of the Finance Committee.

I applaud the bipartisan nature of the work to get this situation turned around. The beneficiaries, the agencies which serve them, and Members of Congress continued to press until we found some relief from the fundamental unfairness in the payment system for home health care.

The Omnibus Appropriations Act conference agreement passed today makes necessary changes to the IPS payment system for the Medicare's home health care benefit. In short, the agreement is expected to provide some equity to agencies which have low-cost, low-utilization practices relative to other agencies by increasing the per beneficiary limits. Agencies below the national median per beneficiary limit will have their limit increased by one-third of the difference between their limit and the national median. The agreement also delays the implementation of the prospective payment system (PPS) until October 1, 2000, and delays an across-the-board 15 percent reduction in payments to home health agencies until that date.

Like most contentious issues, this fix does not go as far as I would have liked and as far as I believe efficient providers like those in Vermont deserve. I support it however because it is better than the status quo.

In the longer term, we need to stop ignoring a more fundamental problem. Congress needs to address the long-term health care needs of the American people.

Stepping back to understanding why the IPS was passed last year, we can see that it was in recognition of the difficulty of designing a more permanent PPS for Medicare home health reimbursement, coupled with the need to immediately control spending.

In the long term, a well-designed PPS will provide the Medicare program with the best means to control home health spending and address the problems Vermont home care agencies, and other agencies around the country that are able to provide quality, low-cost care.

The BBA requires implementation of a PPS by agencies in FY 2000. The PPS would establish a fixed, predetermined payment per unit of service, adjusted for patient characteristics that affect the cost of care. Under a well-designed PPS system, efficient providers would be financially rewarded. Conversely, inefficient ones would need to better control their costs to remain viable. If a PPS is not properly implemented, Medicare will not save money, cost-control incentives will at best be weak, and access to and quality of care could suffer.

I am committed to working with my colleagues to make sure that we work steadfastly in overcoming any hurdles in developing a well-designed PPS so that we do not find ourselves in the same situation that we found ourselves with the IPS.●

KIRK O'DONNELL

● Mr. DODD. Mr. President, two weeks ago, a number of my colleagues and many members of the Washington community gathered at the National Guard Museum for a memorial tribute to a highly respected and admired figure in modern American political life: Kirk O'Donnell. As most of my colleagues know, Kirk O'Donnell was the chief counsel to former Speaker Thomas P. O'Neill Jr. and Boston Mayor Kevin White, and he also served as an advisor to Mayors, Congressmen, Senators, and even Presidents. Tragically, Kirk O'Donnell recently died at the age of 52.

As a fellow Democrat, New Englander, and Irish-American, I had many occasions to cross paths with Kirk O'Donnell, and we eventually became friends. And I have met few people in my political career who were as capable and well-liked as Kirk.

Al Hunt of the Wall Street Journal remembered Kirk as ''one of the ablest and most honorable people in American politics.'' Tom Oliphant of the Boston Globe said, ''he was arguably the best mayor Boston never had. . . Kirk O'Donnell's life demonstrates that all of us can make a difference and that each of us should try.''

In an era of growing cynicism toward politics, he made people feel optimistic that government could have a positive impact on people's lives. It is always difficult to lose someone who is clearly so special, but it is made all the more difficult by the fact that Kirk was so young and had so much more to offer.

The afterword from the O'Donnell funeral program was Ralph Waldo Emerson's definition of what constitutes a successful life:

'' . . . to win the respect of intelligent people and the affection of children; to earn the appreciation of honest critics and endure the betrayal of false friends; to appreciate beauty; to find the best in others; to leave the world a little better place than we found it, whether by a healthy child, a garden patch, or a redeemed social condition; to know even one life breathed easier because you have lived. . . . This is to have succeeded.''

By this measure, Kirk O'Donnell led a successful life. He was a remarkable man, and I will truly miss his friendship.

Kirk O'Donnell is survived by his wife Kathryn and his two children, Holly and Brendan. I offer my heartfelt sympathies to them all.●

TRIBUTE TO DERECK ORR

● Mr. HOLLINGS. Mr. President, I would like to take this opportunity to commend and thank Dereck Orr, who worked with me and my appropriations staff this last year on putting together the fiscal year 1999 Commerce, Justice, State Appropriations bill. Dereck came to me last year as a Presidential Management Intern on detail from the President's COPS office, and proved to be a tremendous asset during this difficult appropriations process.

If ever there was a year to learn about Congress and the Appropriations process, it would be this year. The Commerce, Justice, State subcommittee had a long three days of debate on the floor of the Senate in July, a month-long conference with the House of Representatives, and extension of deadline after deadline in completing action on our bill and the Omnibus Appropriations Act for fiscal year 1999. Throughout this entire process, Dereck maintained poise, integrity, responsibility, and unfaltering support for me and my appropriations staff in getting the job done. He came in weekends, worked late at night, and basically worked above and beyond the call of duty. In particular, Dereck tackled the controversy-ridden issues surrounding the Census Bureau and worked with that agency and the House and Senate Appropriations staff on finding viable solutions for funding concerns and realistic means of addressing the Bureau's policy concerns. Dereck also versed himself in the Department of State title of our bill, making recommendations to staff during the conference on our bill.

Dereck was truly an asset and welcome addition to my committee staff this last year. He came to me highly recommended by those that worked with him at the Department of Justice; he lived up to those recommendations and then some. Dereck is now back at COPS where they again will benefit from this excellent work. We will miss him here in the Senate, but certainly wish him, his wife, Kim, and their new addition well in all their future endeavors.●

GIRL'S INTERNATIONAL FORUM

● Mr. WELLSTONE. Mr. President, I believe it is important for girls and young women to raise awareness about their concerns, and to work to shape the beliefs and policies which affect girls' lives throughout the world. This year, the Girl's International Forum, sponsored by an organization in my state, brought together fifteen outstanding girls from thirteen states to Seneca Falls. For three days, they met and drafted the following Girl's Declaration of Sentiments. I want to share their thoughtful ideas with my colleagues now.

I ask that the declaration be printed in the RECORD.

The declaration follows:

GIRL'S INTERNATIONAL FORUM—GIRLS' DECLARATION OF SENTIMENTS, SENECA FALLS, NEW YORK 1998

Fifteen girls, ages 8–18, created a Girls' Declaration of Sentiments in Seneca Falls, New York on July 16–19, 1998. The girls, hailing from thirteen different states, were brought to Seneca Falls by Girls International Forum, a non-profit organization affiliated with New Moon Magazine for Girls.

Modeled after the original Declaration of Sentiments developed in Seneca Falls 150 years ago by suffragists, the Girls' Declaration defines an agenda for the Girls Movement, just as the Declaration of 1848 defined an agenda for the first wave of the Women's Movement. The Girls' Declaration focuses on 8 areas of concern and proposed solutions.

The Girls' Declaration was unveiled at the Closing Ceremony of Celebrate '98, the sesquicentennial celebration of the First Women's Rights Convention, and received a standing ovation. U.S. Ambassador to the United Nations Commission on Human Rights, Nancy Rubin, accepted the Girls' Declaration on behalf of the U.S. government and pledged to share the document with both the Clinton administration and the United Nations.

Girls International Forum was created in 1994 so girls could help shape the policies which affect girls' lives around the world. GIF's first project took place in 1995 when they sent 13 U.S. girls (ages 10–17) to the United Nations Fourth World Conference on Women in Beijing, China. As the largest girls delegation at the conference, GIF distributed the Girls Agenda (a pamphlet of girls' issues collected from girls worldwide) and raised awareness about girls' eagerness to participate in setting policy that affects girls' lives.

GIRLS' DECLARATION OF SENTIMENTS

PREAMBLE

When, in the course of human events, girls are denied the rights and respect they are entitled to, it becomes necessary for girls everywhere to take action to improve their everyday lives.

We believe that all people—women, men, girls and boys—are created equal. We all have certain rights as people, and it is up to all of us to make sure that these rights are respected and protected. When our society doesn't recognize these rights, changes must occur. Change should not be made without good reason, but the state of our society compels us to work for change. The rights of girls have not been respected. To gain this respect, we must speak out to declare our independence and explain our reasons for doing so.

SPORTS

Facts: Girls have been denied equal access to some sports, positions, and resources. The little attention and encouragement girls receive is frustrating. Girls have been excluded from leadership roles, decreasing their capacity to participate fully as athletes.

Solutions: Girls need to speak out. Girls can create coalitions, push to be included in all sports, or create their own teams. The adults in girls' lives should encourage them with persistent support. Title IX should be more widely recognized, enforced, and expanded in all communities.

MEDIA/SELF-ESTEEM

Facts: Girls feel they must fit into an image the media has created. When they don't, they often lose their self-esteem. This loss causes many girls to be more vulnerable to peer pressure which can lead to substance abuse, eating disorders, teenage sex, pregnancy, and other problems.

Solutions: The media should promote the beauty of all girls regardless of size, shape, or ethnicity. Girls should take the initiative to be healthier, think positively about themselves, and look for the good things in life. Girls can find support from people in similar situations, mentors, and youth organizations. Girls must take action by forming groups, writing letters, and protesting against the media's distorted images of girls.

EMPLOYMENT

Facts: Girls and women have the right to physically demanding or mentally challenging jobs if they choose. They have the right to earn 100 percent of what boys and men earn. Girls and women have the right to a combination of family and career. They have the right to be hired based on capabilities, not on appearance. Girls have the right to work comfortably without fearing sexual harassment.

Solution: To accomplish these goals, girls must stand up for themselves. They should help each other understand the problems they face. Girls should stay positive and strong while fighting this peaceful battle for equality.

VIOLENCE

Facts: Violence and abuse occur everywhere in this nation, limiting girls' independence to fully explore the world around them. Sexual harassment and other kinds of abuse happen in schools and in some families, lowering the self-esteem of the abused or the threatened.

Solutions: Girls and their communities should make sure that social services and police are accessible and available, and that all people know how to reach them. The federal government should create a national toll-free hotline that includes teenagers who have experienced these issues.

EDUCATION

Facts: The educational system focuses on men. Not seeing women in leadership positions in history books and in schools gives girls the impression that women are not able to lead as well as men. In school, many teachers and counselors fail to encourage girls to take non-traditional classes such as high-level math and science classes, weightlifting, auto mechanics, and others. When they do take those classes, girls are often ridiculed for enrolling. Boys are allowed to be outspoken in class, while girls are expected to be quiet and self-controlled, leading girls to believe that what they think or say does not matter.

Solutions: Girls should communicate with teachers, counselors, parents, and others about their educational rights. If this approach fails, girls must write out their concerns and present them to higher authorities such as principals, school boards, superintendents, or state departments of education.

RELIGION

Facts: Many religions teach girls during childhood that only men are meant to be

ministers, priests, rabbis, and leaders of congregations. Boys and men are able to participate more fully and are celebrated more often in many religions.

Solutions: Girls must challenge their religions and question the limits on their participation. Girls must examine their own beliefs to make sure that what they believe in is what they stand up for. Society should not assume that God has a specific gender.

PARENTS

Facts: Most parents are overprotective of their daughters because of problems like rape and kidnapping, but parents don't object to their sons staying out late. Parents often limit girls' freedom, subconsciously using bribery as a blindfold. They often give their daughters more clothes and money, disguising the truth that they are limiting their daughters' freedom.

Solutions: Parents should consider setting curfews, allowance, and chores by responsibility and age, instead of by gender. Girls should challenge their parents and society to make their surroundings a safe place to live.

STEREOTYPING

Facts: Society generates stereotypes about girls that categorize, suppress, pressure and make assumptions based on girls' past traditions. Examples of stereotypes that narrow how girls define themselves include the assumptions that girls should dress a certain way, look pretty, and be quiet, feminine, and pure. Girls have the right to be considered physically equal to boys. They have the right to be strong individuals and still be considered feminine.

Solutions: Girls must define their behavior and appearance according to their personal beliefs and preferences. Society must support and encourage girls' definitions of themselves.

CONCLUSION

In essence, girls look forward to respect, equality, good-paying jobs, and full participation in sports. Our hopes and dreams for the future are for girls and women to succeed in society and to accomplish the goals they set for themselves and for future generations. We hold the hope that girls are fully accepted by society in the near future.

On behalf of Girls International Forum, we would like to give thanks to our first foremothers: Elizabeth Cady Stanton, Susan B. Anthony, Sojourner Truth and Lucretia Mott. If today's society would encourage leadership in young girls and women we will have a strong tomorrow.

Signed by Girls International Forum, Seneca Falls, New York July 19, 1998.

Morgan Kremers, 14, Leah Rodriguez 18, Gaylene Fred, 14, Meredith Turner-Woolley, 13, Martha Fernandez, 16, Paloma Reyes, 16, Mariya Ho, 11, Jamie E. Bernabo, 13, Andrea Baldwin, 9, Katie Baldwin, 11, Reshma Pattni, 14, Alexia Paleologos, 8, Melissa Bagwell, 16, Gradolyn Talley, 13, and Melanie Mousseaux, 16.●

TRIBUTE TO BILL GRADISON

● Mr. DEWINE. Mr. President, I rise today to pay tribute to our former colleague, Bill Gradison. Bill served as a highly respected member of the House of Representatives from Ohio from his election in November 1974 until his retirement from the House of Representatives on January 31, 1993. I personally was fortunate to serve with Bill in the House for eight years. As many of my colleagues know, at the end of the year Bill will be stepping down from his presidency at the Health Insurance Association of America (HIAA), where he has served with great distinction for the past 6 years.

During his years at HIAA, Bill demonstrated the same knowledge, commitment and skills that he did when he served in Congress. Bill Gradison is truly an expert in health care policy. And he has worked diligently over the past few years to improve the nation's health care system and the health of the American people. Equally important, he did so at all times with great thoughtfulness and by truly being a gentleman.

In Bill's 18 years representing Ohio in the House of Representatives, he had a strong influence on many areas, including health care, the budget, taxes, social security, trade, and governmental self discipline.

Of all the issues which he studied and tackled, though, he found health care to be particularly absorbing and challenging. In Congress and out, Bill has worked tirelessly to ensure that all Americans have access to health care that is both high quality and reasonable in cost.

In Congress, Bill worked enthusiastically to promote hospice care, an innovative, compassionate approach to caring for the terminally ill and their families. In 1982, legislation which he sponsored with then Representative Leon Panetta to allow hospices to provide care under the Medicare program, was enacted. Over the years, Bill sponsored numerous other hospice-related measures that received strong bipartisan support and were subsequently enacted. Today, this humanitarian yet cost effective end of life care is widely accepted.

One of Bill's most significant non-health Congressional achievements was indexing income tax brackets and the standard deduction for inflation. Bill also was a major participant in developing the 1983 social security measures that restored the system, then teetering on bankruptcy, to solvency.

Mr. Speaker/Mr. President, I invite all my colleagues to join me in congratulating Bill on his years of dedicated service to Congress and to the HIAA, and wishing him the best of luck in all of his future endeavors. I know we will continue to be enriched by Bill's contributions to the health care debate and to public policy generally for a long time to come.●

NOMINATION OF RICHARD PAEZ TO THE UNITED STATES COURT OF APPEALS IN THE NINTH CIRCUIT

● Mrs. BOXER. Mr. President, I am deeply disappointed that the Senate appears likely to adjourn for the year without acting on the nomination of Richard Paez to the United States Court of Appeals in the Ninth Circuit. The nomination has been pending—incredibly—for almost three years.

I am very proud to say I have supported Judge Paez for over five years. I first had the pleasure of recommending Judge Paez to the President in August of 1993 for the U.S. District Court in the Central District of California, where he currently presides. I introduced him at his hearing for the District Court seat in 1994, and was so proud that the Senate confirmed him that same year.

Judge Paez' confirmation that day was a historic moment. Judge Paez became the first Mexican American to serve as a federal trial judge in Los Angeles. He has been serving with distinction since, and continues to be widely respected.

Concerned that Judge Paez' nomination to the appellate court was in danger of not being voted on in this Congress, I wrote a letter to the Majority Leader on September 3, 1998, strongly urging that he bring up this nomination before the full Senate. If the Senate had voted, I am confident that it would have found Judge Paez to be exceptionally well qualified to serve on the U.S. Court of Appeals and would have confirmed him once again.

Judge Paez' record, both on the bench as well as before the Senate Judiciary Committee, once for his district court nomination, and twice for his appellate court nomination, supports the elevation of Judge Paez to the U.S. Court of Appeals.

For 12 years, Judge Paez served on the Los Angeles Municipal Court, which is one of the largest metropolitan courts in the country. A recognized leader, his colleagues elected him to serve as both Supervising Judge and Presiding Judge.

Judge Paez was elected Chair of the L.A. County Municipal Court Judges Association, and in 1991, he was appointed by California Supreme Court Chief Justice Malcolm Lucas to the first of two terms on the prestigious California Judicial Council, which provides policy direction to the courts, to the governor, and to the legislature, concerning court practices procedures, and its administration.

Judge Paez is supported by Sheriff Sherman Block of Los Angeles County, and Sheldon Sloan who is a former federal judge and is the former president of the Los Angeles County Bar Association.

Representative JAMES ROGAN of California has also written in support of Judge Paez. Representative Rogan was a his colleague when they both served on the Municipal Court in Los Angeles County. Representative ROGAN states ''[h]is character and integrity have never been questioned. He is an accomplished attorney and a respected jurist.''

Gil Garcetti, the District Attorney for the County of Los Angeles, supports Judge Paez, and states his ''broad federal and local criminal justice experience is very meaningful and should favor a positive vote for confirmation.''

James Hahn, the Los Angeles City Attorney, wrote in support of Judge Paez that ''his ethical standards are of

the highest caliber and his judicial temperament makes him one of the most pleasant judges to deal with.''

Peter Brodie, the president of the Association of the Los Angeles Deputy Sheriffs, a 6,000 member organization, supports Judge Paez.

The commissioner of the Department of California Highway Patrol says ''Judge Paez' education, experience, and desire to serve make him extremely well-qualified to serve on the Ninth Circuit Court of Appeals. His character and integrity are impeccable.''

Judge Paez was questioned about his views of Proposition 209 in California. On that issue, I would just cite the opinion of H. Walter Croskey, Associate Justice of the Court of Appeals in Los Angeles, who in his letter of support for Richard Paez' nomination, wrote: ''Based on my own knowledge of his personal integrity and his long and distinguished judicial career, I have no concern that Judge Paez will ever do anything other than approach each case which comes before him on the merits and decide it in accordance with established law and settled principles. You cannot ask more of any judge.''

Judge Paez is a federal judge who is widely acclaimed in the legal community and is eminently qualified for the US Court of Appeals. It is a great loss to the country and our judicial system that the Senate failed to confirm his nomination.

I ask that these letters of support be printed in the RECORD.

The letters follow:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COUNTY OF LOS ANGELES,
SHERIFF'S DEPARTMENT HEADQUARTERS,
Monterey Park, CA, April 8, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I have been advised that United States District Judge Richard A. Paez has been nominated by President Clinton to serve on the Ninth Circuit Court of Appeals.

Judge Paez has been a United States District Judge since 1994. In 1981, Governor Edmund G. Brown, Jr. appointed Judge Paez to the Los Angeles Municipal Court. As a member of the Los Angeles Municipal Court, Judge Paez held positions of Presiding Judge, Assistant Presiding Judge, and Supervising Judge. He has also been a Temporary Judge in the California Court of Appeal, Second Appellate District, and the Los Angeles Superior Court, Law and Discovery.

Judge Paez is a hard working member of the legal profession with impeccable character and integrity. His desire to serve on the Ninth Circuit Court of Appeals is sincere, and a position for which I feel he is well-qualified.

Based on my knowledge of Judge Paez' dedication and experience, I would like to recommend that his appointment to the Ninth Circuit Court of Appeals be favorably considered.

Sincerely,

SHERMAN BLOCK,
Sheriff.

LAW OFFICES OF
SHELDON H. SLOAN,
Los Angeles, CA, April 22, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington DC.

DEAR SENATOR HATCH: I understand that President Clinton has nominated Richard A. Paez to serve on the United States Court of Appeals for the Ninth Circuit.

I have known Judge Paez as a lawyer, as a Municipal Court Judge and as a United States District Court Judge. In each endeavor, he has performed his duties with distinction. Judge Paez is held in great esteem by all with whom he works, be they members of the Bench or the Bar.

As a former Judge, and President-Elect of the Los Angeles County Bar Association, I have been in a position to observe Judge Paez; abilities and demeanor over an extended period of time. As former Chairman of Senators (now Governor) Wilson's and Seymour's Committee on Selection of Federal Judges, U.S. Attorneys, and Marshals for the Central District of California, I certainly believe I have gained an appreciation for what kind of a combination of character, work ethic, demeanor and intelligence is required to fulfill the demanding position of a Judge of the Circuit Court.

Richard Paez is a hard working, experienced quality Judge. He can be strong without being overbearing, and he can be compassionate without being soft. He has been, and will continue to be, a credit to the judiciary as a whole. I recommend him without reservation.

Let us hope and pray that the President continues to send us individuals of the same quality and experience as Richard Paez.

Sincerely,

SHELDON H. SLOAN.

HOUSE OF REPRESENTIVES
Washington, DC, May 26, 1998.

Hon. ORRIN G. HATCH,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I want to bring to your attention United States District Court Judge Richard A. Paez who has been nominated by President Clinton for an appointment to the United States Court of Appeals for the Ninth Circuit. I understand that Judge Paez's nomination passed out of the Senate Judiciary Committee on March 12, 1998, and his nomination is currently pending confirmation on the Senate floor.

Judge Paez and I were colleagues together when we both served on the Municipal Court bench in Los Angeles County. As you are aware from his nomination hearings before your committee, Judge Paez has many fine qualities and impressive credentials. His character and integrity have never been questioned. He is an accomplished attorney and a respected jurist.

Please give Judge Paez's nomination every possible consideration as the Senate deliberates scheduling judicial nominees on the Senate floor.

With best personal regards, I remain,

Sincerely,

JAMES E. ROGAN,
Member of Congress.

GIL GARCETTI, LOS ANGELES
COUNTY DISTRICT ATTORNEY,
Los Angeles, CA, April 22, 1998.

Hon. ORRIN G. HATCH,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: United States District Court Judge Richard A. Paez has informed me that his nomination to the Ninth Circuit Court of Appeals is pending consideration and vote by the United States Senate. I am writing to convey my support for Judge Paez' appointment to the Ninth Circuit.

Judge Paez possesses an impressive record of service as a judge in both civil and criminal matters. While the Los Angeles Municipal Court presiding judge, he was instrumental in instituting a program to reduce the delay in processing cases through the court system. During his 17-year tenure on the bench, he has served on innumerable committees to improve the judicial system in Los Angeles. Though my staff has only had experience with him as a Municipal Court judge, handling felony preliminary hearings, he was viewed then as a hard-working, good judge who took his job seriously and treated prosecutors and defense lawyers with professional courtesy.

But even before being appointed to the bench, Judge Paez demonstrated a strong commitment to the area of public interest law and to performing pro bono work on behalf of many indigent persons who could not afford attorneys to represent them.

In my view, Judge Paez' broad federal and local criminal justice experience is very meaningful and should favor a positive vote for confirmation.

Sincerely yours,

GIL GARCETTI,
District Attorney.

CITY ATTORNEY,
CITY OF LOS ANGELES,
Los Angeles, CA, April 23, 1998.

Hon. ORRIN G. HATCH,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: I am writing to express my strong support for the nomination of Judge Richard A. Paez to the Ninth Circuit Court of Appeals.

As the elected City Attorney for the City of Los Angeles, I am responsible for defending the City, and ultimately the taxpayers, in numerous actions in both state and federal courts. Attorneys from this office appear before virtually every judge in those courts. As a consequence, I am aware of the qualifications, abilities and performance to each of those jurists. Whenever one of our cases is assigned to Judge Paez, I am confident that the City will receive a fair and impartial trial. His reputation as a bright, hardworking judge who is committed to making the correct legal decision is well deserved. In his 17 years as a judge he has demonstrated a keen knowledge of the law and the ability to quickly and easily grasp the factual record. Moreover, his ethical standards are of the highest caliber and his judicial temperament makes him one of the most pleasant judges to deal with.

Judge Paez' experience, demonstrated abilities and commitment to the law make him an excellent nominee for the Ninth Circuit Court of Appeals. I am confident that he would serve with distinction on that court. His nomination should be confirmed.

Very truly yours,

JAMES K. HAHN,
City Attorney.

ASSOCIATION FOR LOS ANGELES
DEPUTY SHERIFFS, INC.,
Los Angeles, CA, April 13, 1998.

Re Recommendation for appointment of Judge Richard Paez.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: On behalf of the 6,000 members of the Association for Los Angeles Deputy Sheriffs, I am asking for your

favorable consideration for the appointment of Judge Richard Paez to serve on the Ninth Circuit Court of Appeals. Based on a review of his past judicial experience and integrity, I believe that Judge Paez has both the capacity and desire to continue to do an outstanding job.

Your consideration in this matter is greatly appreciated.

Sincerely,

PETE BRODIE,
President, ALADS.

DEPARTMENT OF
CALIFORNIA HIGHWAY PATROL,
Sacramento, CA, April 15, 1998.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I understand that President Clinton has nominated Judge Richard A. Paez to serve on the United States Court of Appeals for the Ninth District.

Judge Paez' long and distinguished judicial career began with his appointment to the Los Angeles Municipal Court in 1981. He served as Presiding and Supervising Judge in that court and as a judge in the Los Angeles Superior Court and California Court of Appeal. In 1994, President Clinton nominated him to the United States Central District Court where he has served with distinction.

Judge Paez' education, experience and desire to serve make him extremely well-qualified to serve on the Ninth Circuit Court of Appeals. His character and integrity are impeccable. I recommend that his appointment receive favorable consideration.

Sincerely,

D.O. HELMICK,
Commissioner.●

TRIBUTE TO LIEUTENANT GENERAL DAVE MCCLOUD

● Mr. KEMPTHORNE. Mr. President, I rise today to offer a tribute to Air Force Lieutenant General Dave J. McCloud who died in a tragic plane crash on July 26, 1998 in Alaska. Dave McCloud was an outstanding officer, husband and father. The nation and the Air Force lost one of its finest military leaders when Dave McCloud passed away. General McCloud was an energetic, sincere and honest man who I considered a true friend. Like many others, I mourn Dave's passing every day.

I know Dave's wife Anna misses her partner and I know his son and daughter, Robyn, miss their father. I offer my deepest condolences to all of Dave's family and friends.

As a final tribute to fighter pilot Dave McCloud, I offer the following poem, ''High Flight,'' which epitomizes my friend in so many ways.

HIGH FLIGHT

(By John Gillispie Magee, Jr.)

Oh, I have slipped the surly bonds of earth
And danced the skies on laughter-silvered wings;
Sunward I've climbed, and joined the tumbling mirth
Of sun-split clouds—and done a hundred things
You have not dreamed of—wheeled and soared and swung
High in the sunlit silence, Hov'ring there,
I've chased the shouting wind along, and flung
My eager craft through footless halls of air.
Up, up the long, delirious, burning blue
I've topped the windswept heights with easy grace
Where never lark, or even eagle flew
And, while with silent, lifting mind I've trod
The high untrespassed sanctity of space,
Put out my hand, and touched the face of God.

By Pilot Officer John Gillispie Magee, Jr.
No 412 Squadron, RCAF (1922–1941)

''High Flight'', a poem by John Gillespie Magee, Jr. An American/British fighter pilot. He flew with the Royal Canadian Air Force in World War II. He came to Britain, flew in a Spitfire squadron, and was killed at age 19 on December 11, 1941, during a training flight from the airfield near Scopwick, Lincolnshire. The poem was written on the back of a letter to his parents which stated, ''I am enclosing a verse I wrote the other day. It started at 30,000 feet, and was finished soon after I landed.''●

HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT

● Mr. GRAHAM. Mr. President, because of a tremendous bipartisan effort, and the support of many of our nation's local community leaders, a step toward justice and fairness for Haitian refugees will be taken by this Congress.

The effort began on November 11, 1997, and will culminate in the passage of this omnibus budget bill.

My colleagues, both in the Senate and the House deserve many thanks: Senator CONNIE MACK, Senator KENNEDY, Senator ABRAHAM, Representatives MEEK, CONYERS, DIAZ-BALART and ROS-LEHTINEN. The support of the White House was instrumental in reaching the final agreement to include this legislation in the omnibus appropriations bill. In both chambers, with both parties, the Haitian Refugee Immigration Fairness Act gained the support needed for passage.

In so many instances, this legislation meant life or death for the refugees who came here seeking safety from persecution. In the field hearing, held in Miami last December, Amnesty International stated unequivocally that the safety of refugees who were deported to Haiti could not be guaranteed.

I was so appreciative, not only of the bipartisan support that this legislation received, but of support that crossed national lines as well. From the beginning, the Hispanic community: Fraternidad Nicauaguense, the Bloque de Apoyo a la Unidad Nicaraguense, Unidad Hondurena, the Cuban-American community, and others have joined together to help their Haitian brethren achieve immigration fairness.

The measure of this legislation's impact can best be seen through the eyes of those individuals who were most impacted by the previous state of affairs. I had the opportunity, the pleasure, to meet many of them at our hearing in Miami. Every audience member was moved by their testimony, by the personal accounts of their experiences in Haiti, and the brutality that they fled.

I had the opportunity to meet others in this category on my trips to Haiti, and my visits to Guantanamo Bay, Cuba. Even in these harsh conditions, the spirit and determination of these brave individuals was remarkable, struggling to liberate themselves and their families from persecution and brutality. They are following in the tradition of fighters for freedom and justice worldwide.

Our nation has, since its foundation, served as a refuge of those seeking justice and safety. The evolution of our country's current refugee policy is in many ways to ensure that we avoid situations, such as the one that developed, close to my home state, in the time leading up to World War II. The vessel *St. Louis* moored within sight of the city of Miami for several days, filled with passengers of the Jewish faith, fleeing the violence in Europe. Our country refused them safety. The passengers returned to Europe, many of them to their certain death.

Since then, beginning with specific refugee legislation in the decades after the war and developing into the Refugee Act of 1980, the United States of America has offered freedom and sanctuary to those fleeing persecution, brutality, and human rights abuses.

The bipartisan effort that led to the passage of the Haitian Immigration Fairness Act ensures that we maintain this valued tradition in the United States. We will treat Haitian national refugees in the same manner as we have treated similarly situated individuals over the last decades.

In relation to one aspect of the legislation, I wanted to clarify the intent of the section dealing with stays of deportation. The intent of this legislation is that the INS would not seek to remove a qualified spouse or the child of a qualified alien who has applied for relief under this legislation, and received a stay of deportation or removal.

Again, many of my colleagues in the Senate and the House deserve thanks for their tremendous support on this effort. It will make a difference in the lives of many individuals who are a part of our vibrant South Florida community. They will no longer be in immigration limbo, and can continue to build their part of the American dream.●

SERBIAN CRACKDOWN ON INDEPENDENT MEDIA

● Mr. D'AMATO. Mr. President, I rise today to call to my colleagues' attention an ominous and entirely predictable development—Slobodan Milosevic is closing the independent media in Serbia. He is following the time-worn practice of dictators by trying to control Serbians' thinking—and therefore their politics—by controlling their access to information.

The Senate and House have declared that we have reason to believe that

Milosevic has committed war crimes, crimes against humanity and genocide. While offenses like denying freedom of speech, assembly, and the press to his people don't rise to that capital criminal level, they further demonstrate his fine disdain for the rules and values of the rest of the world, and his iron determination to hold power at all costs.

We are treated to the spectacle of Milosevic's killers conducting ethnic cleansing in Kosovo while he and his political allies use the Kosovo conflict as a tool to divide and suppress Serbian domestic political opposition. The mass public demonstrations aimed at the creation of democracy in Serbia have ceased. Factions joined together in opposition to Milosevic have been split apart, as he has appealed once again to extreme nationalist Serbian sentiment.

Indeed, his excuse for closing these independent media outlets has been because they have been spreading ''fear, panic and defeatism'' and undermining ''the people's readiness to safeguard the territorial integrity and sovereignty of Serbia.'' He has been so happy with the results of this effort that his tame parliament, according to a report in the October 21, 1998 edition of the Washington Post, ''adopted a new information law today that critics say further restricts independent media and leads the country back toward dictatorship. The law bans broadcasts of Serbian-language programs by foreign media and calls for huge fines against media editors and owners who disobey the decree. It also gives broad powers to the authorities and places further restrictions on working permits for media organizations.''

This situation was thoroughly discussed in a Washington Post op-ed entitled ''Darkness Over Serbia,'' by Slobodan Pavlovic, printed in the Tuesday, October 20, 1998 edition on page A19. I commend this article to my colleagues.

Milosevic has carefully calibrated his defiance of the rest of the world. He knows, or at least thinks he knows, what it would take to trigger a forceful response to his actions, and he stays just short of that threshold. The terrible consequences of his determination, and the world's forbearance, are clear to see in the faces of the refugees in Kosovo and hear in the silence left by the suppressed voices of his domestic opposition in Serbia.

Just as in Bosnia, the international community, represented by Ambassador Richard Holbrooke, has gone to Milosevic in Belgrade, looking for peace in Kosovo. Once again, we have made Milosevic the indispensable man, and thereby encouraged him to remain difficult, at a level that requires our constant attention. In addition, in the process of seeking Milosevic's agreement to abide by the terms of a United Nations Security Council resolution, our visiting delegations have not met with the democratic opposition in Serbia. This has sent a regrettable message, one that we should not have sent.

Mr. President, while we cannot save the independent media in Serbia from Milosevic's wrath, we must let them know that we care, that we have not forgotten them, that we support them, and that we understand that a democratic Serbia open to the West and the world is the solution to lasting peace in the Balkans. I also want to express my support for our efforts to sustain Serbian-language broadcasting into Serbia, which is even more important now that independent domestic voices are stifled by force.

The people of Serbia are not enemies of the United States. The Milosevic regime is not just an enemy of the United States, it is an enemy of the world. The sooner those powers that extend, in some form, comfort and support to Milosevic realize this, the sooner we can move toward the establishment of peace in the Balkans.

It is in no power's interest that there should be lasting war, political instability, and economic depression in the Balkans. Whatever advantage may be gained in the short term by diverting time, money, forces, and energy to coping with the results of Milosevic's unbridled political ambition can vanish quickly. If he should miscalculate or if any number of unpredictable events should take place, this conflict could spill across international borders with incalculable consequences.

In conclusion, while expressions of our outrage cannot reopen newspapers or turn on radio or television transmitters, we can give hope and courage to those who believe in basic human rights. Freedom of speech, assembly, and the press are essential to the creation and function of civil society. Serbia and Montenegro have promised in the Helsinki Accords and elsewhere to respect and protect these rights, and Milosevic's regime is in clear and blatant violation of these commitments. I expect the United States and our allies to make clear to Milosevic that we know what he has done and is doing and will hold him responsible for these actions.

I ask that an article entitled ''Milosevic Told He Hasn't Met NATO Demands'' be printed in the RECORD.

The article follows:

[From the Associated Press, October 21, 1998]

MILOSEVIC TOLD HE HASN'T MET NATO DEMANDS

(By Tom Cohen)

PRISTINA, Yugoslavia, Oct. 20.—NATO's military chief warned Yugoslav President Slobodan Milosevic today he still has not met terms of an agreement to avert airstrikes.

U.S. Army Gen. Wesley Clark delivered the message to Milosevic in the capital Belgrade as a new surge of violence raised fears about the Oct. 12 agreement with U.S. envoy Richard C. Holbrooke aimed at ending the ethnic conflict in Kosovo province. Their meeting began around 6 p.m. today and ended late in the evening.

Earlier, State Department spokesman James P. Rubin told reporters in Washington that Clark would talk to the Yugoslav leader ''about his failure to comply fully with the requirements of the international community. And he will be making very clear that NATO will use military force against the Serbs if he [Milosevic] doesn't comply,'' Rubin said.

U.S. and NATO officials have complained that Milosevic still has not withdrawn all the special police units sent to Kosovo in February when he launched his crackdown against ethnic Albanian separatists of the Kosovo Liberation Army.

The guerrillas have been fighting for independence for Kosovo, a province of Yugoslavia's main republic of Serbia. Ethnic Albanians comprise 90 percent of Kosovo's 2 million inhabitants.

Under an agreement with Holbrooke, Milosevic pledged to meet a series of U.N. demands—including a withdrawal of special police and army units, halting the crackdown, allowing international agencies to aid refugees and resuming talks with ethnic Albanians on the future of the province.

Meanwhile, recent violence has prompted Yugoslav army troops backed by Serbian police to maintain a presence. The official Yugoslav news agency Tanjug said today a Serbian policeman was wounded when ''terrorists'' attacked a police patrol near Klina, 30 miles southwest of Pristina, the capital. U.S. officials have also warned the Kosovo Liberation Army to halt such attacks.

In Pristina, the rebels issued a statement detailing a series of demands, chief among them the withdrawal of all government forces from the province. In a statement to Albanian-language media, rebels also demanded a halt to arrests of suspected guerrillas, release of ''political prisoners'' and investigations of ''crimes against humanity.''

''Failure to fulfill those demands will impose on [the Kosovo Liberation Army] the continuation of the war for freedom, independence and democracy,'' the rebels said.

Meanwhile, the Serbian parliament adopted a new information law today that critics say further restricts independent media and leads the country back toward dictatorship.

The law bans broadcasts of Serbian-language programs by foreign media and calls for huge fines against media editors and owners who disobey the decree. It also gives broad powers to the authorities and places further restrictions on working permits for media organizations.

[From the Washington Post, Oct. 20, 1998]

DARKNESS OVER SERBIA

(By Slobodan Pavlovic)

Fortunately, bombs did not fall on Serbia. But Serbia still found itself in darkness—a media darkness characterizing totalitarian regimes. A darkness that never existed even during the time that we are ready today to call ''Tito's dictatorship in Yugoslavia.''

The ruling red-black coalition in Belgrade (Slobodan Milosevic's Socialists, the Communists of his wife Mira Markovic and radicals led by Vojislav Seselj) has imposed a sort of dictatorship in Serbia. The government order to close down the leading independent dailies Nasa Borba, Dnevni Telegraf and Danas, to silence a number of radio stations and to ban transmission of foreign broadcasts, has created legal ground for the so-called ''Information Bill,'' which was urgently prepared for the Serbian assembly.

On the battlefield for truth in Serbia there are left two privately owned tabloids, two independent news agencies and the Association of the Independent Electronic Media, led by the popular radio station B92. How long they will survive remains to be seen. The regime is sending threatening signals that, after the downing of the flagships of the independent media, it will deal with all the other ''sources of the enemy propaganda,'' including owners of the satellite dishes and Internet providers in Serbia.

Although Slobodan Milosevic announced last week that the agreement on Kosovo reached with ambassador Richard Holbrooke has eliminated immediate danger of war, the closing down of the independent media is still being carried out for, allegedly, spreading ''fear, panic and defeatism'' and undermining ''the people's readiness to safeguard the territorial integrity and sovereignty of Serbia.''

Milosevic's war against truth, which has been fought since the beginning of the breakdown of the former Yugoslavia, has continued on Kosovo. Intentions of the Belgrade despot are clear: He obviously does not want the threat of the NATO force he has brought to Serbia to receive media coverage at home, except that provided by government propaganda. Only that way can he conceal from the people who are already generally brainwashed by official propaganda, the fact that the agreement with Holbrooke represents no victory for Serbia (as claimed by the controlled media in Belgrade) but an ultimatum from the international community on the basic issues of Kosovo, which could have been resolved a long time ago—without war, victims, destruction, refugees and OSCE and NATO verifiers.

The British prime minister, Tony Blair, stated a few days ago that President Milosevic is deluding himself if he counts on using the latest breakthrough in the Kosovo talks as leverage to undermine the remaining political opponents in Serbia. This message from London sounds promising, but would serve even better if the free world were to confirm it by taking a few concrete steps.

The Cold War was a war for democracy, which America won without firing one single bullet. Would it not be ironic and tragic that lessons in democracy are to be given now by dropping NATO bombs on those still living in the times before the fall of the Berlin Wall?

Cooperation of the Belgrade regime could be secured only by threatening Milosevic with ''arguments'' from the commander of NATO, Gen. Wesley Clark. However, the agreement reached later (it would be a mistake to characterize it as a peace agreement; at best, it is a cease-fire) does not address at all the fundamental underlying problem of continuing political instability in Balkans—the lack of democracy in Serbia. In fact, the Kosovo agreement strengthens Milosevic's authoritarian power. He will now quickly establish full cooperation with international humanitarian agencies, while proclaiming at home that he has done his duty in suppressing the terrorist rebellion in Kosovo.

Friends of Serbia abroad often say that the Serbian people have to start helping themselves, before anyone else can help them on their road to democracy. That is true. But it is also true that the United States and, generally, the international community have up to now not paid the necessary attention to the existing democratic alternative in Serbia, nor have they offered them the necessary help required.

For example, in the agreement between Holbrooke and Milosevic, a condition is set that within nine months free and fair elections must be held in Kosovo, but it is not noted anywhere that the same regular elections in Serbia proper should be one of the conditions for its reentry into the international institutions.

Equally, the Clinton administration has for some time been advised to begin diplomatic isolation of President Milosevic, instead of providing him with the public image of an internationally recognized and respected leader. As the representatives of the Serbian democratic alternative said during their recent visit to Washington: ''Milosevic is the problem, not the solution for Serbia.''

There cannot be real solutions for the problems in Kosovo and Bosnia without democracy in Serbia, and there will not be democracy in Serbia as long as Slobodan Milosevic is in charge in Belgrade. The current media darkness over Serbia confirms that said fact.●

NOMINATION OF JAMES C. HORMEL

● Mrs. BOXER. Mr. President, I am deeply saddened that the Senate will adjourn for the year without approving the nomination of James C. Hormel to be U.S. Ambassador to Luxembourg. Mr. Hormel's nomination has been pending in the Senate, but it has never even been scheduled for debate.

Since James Hormel's nomination was favorably reported out of the Senate Foreign Relations Committee last year, many senators have asked the Majority Leader to schedule a debate and vote. Many have recognized Mr. Hormel's extensive knowledge of diplomacy, international relations and the business world, his outstanding record of service to his community and his nation, and his leadership qualities—all of which make him obviously qualified for the post to which he was nominated by the President.

James Hormel graduated from Swathmore College and shortly thereafter earned his Juris Doctorate at the University of Chicago Law School. He served for several years as the Dean of Students and Assistant Dean at the University of Chicago Law School. Since 1984, he has presided as Chairman of EQUIDEX, Inc., an investment firm based in San Francisco.

For the past 30 years, Mr. Hormel has been a dedicated philanthropist, generously working to support a wide range of worthy causes. For his unselfish acts of giving, he has received several awards and honors. In 1996, he was named Philanthropist of the Year by the Golden Gate Chapter of the National Society of Fundraising Executives.

On the local level, Mr. Hormel is an active member of the San Francisco community working with several important civic organizations. His current projects include the San Francisco Chamber of Commerce, the Human Rights Campaign Foundation, the San Francisco Symphony and the American Foundation for AIDS Research.

James Hormel has the necessary skills and talents to serve as an ambassador. He is clearly qualified to represent his country in Luxembourg. He has as clear a record of achievement and service as any ambassadorial nominee the Senate has ever considered.

But despite Mr. Hormel's impressive resume and the favorable recommendation of the Foreign Relations Committee, his nomination was not even given the courtesy of a debate by the full Senate. Why not? Any senator who questioned Mr. Hormel's qualifications to be ambassador to Luxembourg could have done so in a public debate on the Senate floor. That is every senator's right. That is the Senate's procedure. That is the Constitutional process.

Unfortunately, however, instead of a debate by the full Senate on the question of his nomination, Mr. Hormel himself was subjected to repeated accusations in the form of ''morning business statements'' and comments to the news media.

I can only say, Mr. President, that, in my view, the Senate failed to take up the nomination of James Hormel for the sole reason that he is gay.

The Senate should have debated and voted on this nomination. If it had done so, I am confident that Mr. Hormel would have been confirmed. But, because of the prejudice of a few individuals, James Hormel has been denied the opportunity to serve his country in a position at which I believe he would have excelled and made us all proud.

The failure to act on the nomination of James C. Hormel will forever be a blot on the record of this Senate.●

CONGRESSIONAL BUDGET OFFICE REPORT—S. 2500

● Mr. MURKOWSKI. Mr. President, I ask that the following report by the Congressional Budget Office on S. 2500 by printed in the CONGRESSIONAL RECORD for the information of all Members.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 14, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2500, a bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2500—A bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas

CBO estimates that enacting S. 2500 would have no significant impact on the federal budget in the next five years, although it is possible that the legislation could result in a loss of offsetting receipts. Because the bill could affect direct spending, pay-as-you-go procedures would apply. S. 2500 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

In many parts of the west, ownership of the subsurface estate is split: the coal estate, oil and gas estate, and hardrock mineral estate may all be separately owned. Until recently, current law has been interpreted to associate coalbed methane (CBM) with the oil and gas estate. Thus, royalties from CBM production are paid to the owner of the oil and gas estate.

On July 20, 1998, the 10th U.S. Circuit Court of Appeals ruled that CBM is associated with the coal estate rather than the oil and gas estate. If upheld, this ruling would mean that where the coal estate and the oil

and gas estate are owned by different parties. CBM royalties now being paid to the owner of the oil and gas estate would instead be due to the owner of the coal estate. Where the federal government owns the coal estate but not the oil and gas estate, the federal government could begin collecting CBM royalties; where the government owns the oil and gas estate but not the coal estate, the government might have to cease collecting CBM royalties. According to the Department of the Interior (DOI), the former of these two cases would be common and the latter case would be rare. But because the ruling by the 10th Circuit Court could be appealed to the U.S. Supreme Court or could be contradicted by a ruling in a different circuit court of appeals, DOI will not consider collecting such CBM royalties until the interpretation of current law is clear.

S. 2500 would provide that, for any lease in effect on or before enactment of the bill that allows for CBM production and where the federal government retains ownership of the coal estate, existing lessees would continue to pay CBM royalties to nonfederal owner of the oil and gas estate.

For purposes of this estimate, CBO assumes that, in the absence of the bill, the current situation will continue for the foreseeable future—that is, the federal government will not collect CBM royalties on existing leases when it owns only the coal estate. Therefore, we estimate that enacting S. 2500 would not affect offsetting receipts from mineral production and any associated payments to states over the next five years. Another outcome is possible, however. If the ruling of the 10th U.S. Circuit Court of Appeals is subsequently upheld, enacting the bill could result in a loss of offsetting receipts that the federal government would otherwise collect for certain CBM production. CBO has little information about the size of the potential losses, but they could be less than $1 million or as much as several million dollars a year.

The CBO staff contact is Victoria V. Heid. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.●

A TRIBUTE TO SUSY SMITH

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Susy Smith, who has served as my Legislative Director for nearly my entire Senate career. Her contributions to my legislative efforts have been without parallel, and she leaves with an impressive record of achievement and the profound respect of all who have been fortunate enough to work with her.

Susy is one of those unique people who knows how to make government work for its people. Her work in the Carter administration, along with her more than ten years as a top level congressional aide to Congressman Norm Mineta, Senator BARBARA MIKULSKI, and myself, have been a testament to both her talent and commitment to public service. Her quiet leadership, innate sense of judgment, and uncanny ability to stay on top of dozens of issues pending before the Senate made her an enormously valuable asset to my office.

Susy also possesses a deep and abiding faith in the American political process, and the role that Congress plays in our constitutional system of government. She has helped me imbue my staff with a sense of their duty to serve the people of California, together with the knowledge that the work we do here truly makes a difference in people's lives back home.

Susy has played a vital role in helping to pass some of my most important legislative initiatives such as the Desert Protection Act, the Assault Weapons Ban, and the Breast Cancer Research Stamp Act. In fact, over the past 5 years, Susy has put her indelible stamp on every piece of legislation that came out of my office. Her hard work has paid off not just for the people of California, but for the entire Nation—in safer streets, in more money for cancer research, in better health care for America's women, and in national parks that all of us can enjoy, to name just a few.

What stands out most about Susy is her wonderful ability to bring out the best of everyone. Her good judgement, great sense of humor, and supportive nature carried the staff through many tough battles, long days, and stressful times. She is not only a sharp political strategist and astute policy analyst, but a terrific manager and steadying presence in the office. I have appreciated her professional spirit and have placed much confidence in her decision making and perspective.

So it is with a deep sense of admiration, some sadness, and heartfelt good wishes that my staff and I say goodbye to Susy, secure in the knowledge that she will be just as successful in all her future endeavors as she has been working in the U.S. Senate.●

PATIENT PROTECTIONS

● Mrs. BOXER. Mr. President, I wish to express how disappointed I am that the 105th Congress has failed to act on legislation to increase protections for the millions of Americans whose health insurance benefits are managed by health maintenance organizations (HMOs).

The Patients' Bill of Rights legislation, which was introduced by the Democratic Leader, Senator DASCHLE, and cosponsored by me and most of my Democratic colleagues, was endorsed by over 180 organizations, including the American Medical Association, the American Nurses Association, and the AARP.

The Patients' Bill of Rights would have given protections to all 161 million privately insured Americans. It would have: Guaranteed patients access to emergency room services; ensured access to specialists for patients with serious or chronic conditions; given women direct access to the OB/GYN, and allowed them to designate their OB/GYNs as primary care doctors; allowed patients to appeal their insurance companies' decisions to an independent reviewer and receive timely decisions that would be binding on HMOs; protected doctors and nurses who advocate for their patients from being fired by an HMO; prohibit insurance companies from arbitrarily interfering with the decisions of doctors; ensured that doctors be able to decide which medications their patients should receive; and limited the ability of insurance companies to use financial incentives to get doctors to deny patient care.

It is unfortunate that the Majority Leader would not allow a vote on the Patients' Bill of Rights. But this fight is not over. Americans continue to demand that their HMOs be held accountable for putting profits ahead of patients. Supporters of the Patients' Bill of Rights continue to believe that doctors—not HMO accountants—should make medical decisions.

I urge the leadership of the 106th Congress, which will convene in January, 1999, to immediately schedule a debate and vote on the Patients' Bill of Rights, in order to secure basic patient protections for the 60 percent of all Americans who get their health insurance through HMOs.●

COLUMBIA UNIVERSITY LAW PROFESSOR RICHARD N. GARDNER

● Mr. MOYNIHAN. Mr. President, I rise to offer my congratulations to the former United States Ambassador to Spain, Richard N. Gardner who earlier this year received the Thomas Jefferson Award for his service during his tenure in Madrid.

Since its inception in 1993, the Thomas Jefferson Award has been given annually by American Citizens Abroad to the State Department employee who has ''done the most for American citizens overseas.'' After consulting American clubs, Chambers of Commerce, and individual Americans around the world, American Citizens Abroad announced in Geneva that Richard Gardner was this year's recipient. The Ambassador was commended for his assistance to U.S. business, his establishment of twenty new scholarships for young Spaniards to study in the States, and for his frequent and informed articles in Spanish publications.

Richard Gardner currently serves as the Henry L. Moses Professor of Law and International Organization at Columbia University Law School. He has spent a lifetime devoted to promoting international stability. He recognizes as only too few do the value of international law in the world.

I ask that his article ''Why U.N. Dues Aren't Optional'' from The International Herald Tribune be printed in the RECORD and with appreciation and admiration I extend my congratulations to Ambassador Gardner and his wife, Danielle, on this most splendid and deserved award.

The article follows:

[From the International Herald Tribune, Mar. 11, 1998]

WHY UN DUES AREN'T OPTIONAL

(By Richard N. Gardner)

NEW YORK.—A top priority for the Clinton administration is to persuade Congress to

pay more than $1 billion in back dues to the United Nations. Failure to do so would undermine critical UN operations in peacekeeping and development and further diminish U.S. influence in the world organization.

Complicating the administration's task is a new and fallacious idea, accepted by many members of Congress, that America has no legal obligation to pay its UN debts.

Last fall the Senate Foreign Relations Committee declared that the UN Charter ''in no way creates a 'legal obligation'' on the U.S. Congress to provide the money to pay the dues. In justification, the committee wrote: ''The United States Constitution places the authority to tax United States citizens and to authorize and appropriate those funds solely in the power of the United States Congress.''

Those statements reflect a dangerous misunderstanding of the relation between international and domestic law.

The UN Charter is a treaty that legally binds every UN member. Of course, a treaty cannot override the U.S. Constitution; Congress is free as a matter of domestic law to violate U.S. obligations under international law.

But these truisms do not alter the facts: If Congress exercises its constitutional right to violate a treaty, America still has a legal obligation to other countries, and refusal to live up to U.S. commitments can have legal consequences.

There is no international police force to enforce international law, but nations generally observe treaty obligations because of a desire for reciprocity and fear of reprisal.

In 1961, when the Soviet Union refused to pay its assessments for the Congo and Middle East peacekeeping operations, Republican and Democratic members of Congress insisted that the United States go to the World Court to get an advisory opinion that the Soviet Union had a legal obligation to pay.

The U.S. brief to the court, in whose preparation I had a part, stated: ''The General Assembly's adoption and apportionment of the organization's expenses create a binding legal obligation on the part of the member states to pay their assessed shares.'' In 1962, the court agreed with that proposition, and the General Assembly accepted it.

Article 19 of the UN Charter provides that a country in arrears of its assessments by two full years shall lose its vote in the General Assembly. The assembly, in an unfortunate failure of political will, failed to apply that sanction to the Soviet Union when it became applicable in 1964. Nevertheless, the assembly recently has regularly applied the loss-of-vote sanction.

We are not just dealing here with legal technicalities, but with realpolitik in the best sense of the word. If nations were free to treat their UN assessments as voluntary, the financial basis of the organization would quickly dissolve.

Some Americans would not mind it if the United Nations' financial support unraveled. They do not seem fully to appreciate how important the United Nations' work in conflict resolution, peacekeeping, sustainable development, humanitarian relief and human rights can be for America.

If the United States has no legal obligation to live up to its treaties and other international agreements, neither do other countries. Then, any country would be free to violate any legal commitment it has made to America, whether to open its domestic market, reduce its nuclear arsenal, provide basing for U.S. ships and aircraft, extradite or prosecute terrorists or refrain from poisoning the global environment.●

CARNEY J. CAMPION

● Mrs. BOXER. Mr. President, I rise today to honor the retirement of Mr. Carney J. Campion. Mr. Campion has served California's Golden Gate Bridge, Highway and Transportation District for 23 years with a standard of excellence that deserves our recognition.

As a Californian, and on behalf of all Californians, I want to personally thank Mr. Campion for his years of dedicated and outstanding service. Over the past 14 years, as general manager of the Golden Gate Bridge, Highway and Transportation District, Mr. Campion has been instrumental in advancing numerous projects aimed at improving the transportation infrastructure for California's future. His commitment to find better ways to serve the public was exemplified in his successful effort to modernize and expand the District's bus transit and administration facility in San Rafael. It was his leadership that sparked the purchase and preservation of the abandoned Northwestern Pacific Railroad right-of-way from Novato, California, north to Willits, California, for future transportation use. His innovative spirit led to many improvements of the Golden Gate Bridge and under his leadership the huge 50th Anniversary Celebration for the bridge was a roaring success. I was fortunate to have worked closely with him on a number of occasions, most recently in obtaining desperately needed federal funding for a portion of the $217 million seismic retrofit of the Golden Gate Bridge.

Mr. Campion has also served as a diplomat by managing to bridge the political gap between San Francisco and North Bay representatives on the span's board. He deserves our admiration for performing his job superbly while continuing to display his commitment to best representing the interests of Marin, San Francisco and, most of all, the bridge which is a world-renowned landmark of my great state, the Golden Gate Bridge.

Mr. President, Mr. Campion's ability to function effectively and creatively during his years of service are worthy of our unmeasurable gratitude. With Mr. Campion's retirement, the Golden Gate Bridge and the citizens of my state are losing the services of a committed and intelligent man. I wish him all the best, and hope his retirement is as fulfilling as his career.●

MEDICARE CERTIFICATION

● Mr. LEVIN. Mr. President, for the last few years, I have been working on an issue of great importance to my constituents in Flint, Michigan. The city of Flint is home to an outstanding medical facility, Hurley Medical Center. A subsidiary of Hurley Medical Center owns a nursing home, Heartland Manor, also located in Flint. Heartland Manor has applied to HCFA for Medicare certification which it has been attempting to do since 1994. However, Heartland Manor has been thwarted in this process at every turn by HCFA. I would like to lay out the facts of this situation for the record.

On July 27, 1989, Chateau Gardens, a nursing home facility, was terminated from the Medicare program. On January 1, 1994, West Flint Village Long Term Care Inc., a subsidiary of Hurley Foundation, purchased Chateau Gardens. The new owner, Hurley Medical Center, is a non profit public hospital with an excellent reputation. State officials requested that Hurley Medical Center take over Heartland Manor. In taking over the facility, the entire staff and management of the nursing home was changed. In 1994 Heartland Manor applied for certification into the Medicare program as a new, prospective, provider. Heartland Manor had never before entered into a Medicare participation agreement and had never been issued a provider number. However, HCFA chose to consider Heartland as a re-entry provider and Heartland was subsequently denied participation into the Medicare program based in large part on violations which HCFA carried over from the previous owner. If Heartland Manor had been treated as a new provider, it would have been approved and would presently be in the Medicare program.

The complaints that have been cited against Heartland Manor itself are typical of complaints which are lodged against many established and reputable nursing homes. In fact, the citations which Heartland Manor has received have consistently been either deleted or reduced in their determination of scope and severity. I recently reviewed eight complaints that were levied against Heartland Manor in August. None of the complaints represented a determination of a deficient facility practice.

Hurley Medical Center is planning to build a new complex that will bring state of the art care to an underserved area. The only barrier to this undertaking is Heartland's lack of Medicare certification. Once Heartland Manor receives Medicare certification, Hurley plans to put $10 million into renovating Heartland Manor.

I believe that Heartland Manor deserves to be treated as a new provider as was determined by Administrative Law Judge Stephen Ahlgren's February 26, 1998 ruling. It is illogical and unconscionable that HCFA is refusing to treat Heartland Manor as a new provider.

Mr. President, I had hoped that we could have resolved this issue in the appropriations process. It was my intent to offer an amendment to the Labor Health and Human Services and Education Appropriations Bill that would have required that HCFA consider Heartland Manor to be a new provider for Medicare certification purposes. That bill never showed up on the floor but instead was wrapped into an omnibus nonamendable conference report.

I believe that it is fair and just for the community of Flint that Heartland Manor be treated as a new provider. Providing Heartland Manor with the ability to apply as a new provider will allow the nursing home to receive a fair shot at Medicare certification which is all I am asking for.●

THE DUNGENESS CRAB CONSERVATION AND MANAGEMENT ACT

● Mr. WYDEN. Mr. President, today Congress passed a version of the Dungeness Crab Conservation and Management Act, a bipartisan bill which I cosponsored along with Senators MURRAY, GORTON, and SMITH. I would like to particularly commend Senator MURRAY for her strong leadership on this issue. She introduced the bill earlier this year and worked hard to secure its passage in this Congress.

Dungeness crab is integral to the economies of Oregon's coastal communities. The fishery is successfully managed, from both an environmental and an economic standpoint, by the States of Oregon, Washington, and California. Under existing law, the Federal government would have taken control of the management of Dungeness crab next year, costing taxpayers hundreds of thousands of dollars. Our legislation prevents this from happening. This is a common sense approach: it extends the existing authority for the States to manage Dungeness crab in Federal waters and eliminates the need to develop a costly Federal fishery managment plan.

The Magnuson-Stevens Fishery Conservation and Management Act, enacted in 1976, established regional Fishery Management Councils to develop Federal management plans for fisheries in need of conservation and management in Federal waters. However, in order to meet regional needs, the interpretation of this provision has traditionally been flexible, allowing states to manage some fisheries in Federal waters. An example of this flexibility is state management of the West Coast Dungeness crab fishery.

Since the 1960's, the States of Oregon, Washington and California have managed the Dungeness crab fishery in Federal waters. The three states and the concerned Indian tribes have worked together to make sure fishermen from each state are treated fairly and the fishery remains biologically sound. West Coast fishermen, scientists, fishery managers, and conservation groups all agree that state management has been a success story.

From a conservation standpoint, state management of Dungeness crab is effective. The crabs are harvested in a way that ensures healthy populations for the future. In addition, the problem of bycatch, or incidental catch of other fish species, is almost non-existent in the crab fishery.

Under the Magnuson Act, the authority for state management of Dungeness crab expires next year. The expiration of state authority would have required the Pacific Fishery Management Council to develop a Federal fishery management plan in 1999. Developing this plan would have consumed scant Council resources and staff time.

As many folks in Oregon know, management of West Coast groundfish and salmon species presents huge challenges to fishery managers. The Council shouldn't be forced to divert critical resources from groundfish and salmon in order to manage a species like crab, which is doing fine under the existing states' plan. With the passage of this legislation today, the Council can continue to focus its resources on the fisheries that need special attention.

This bill makes common sense by taking advantage of the unique situation presented by the Dungeness crab fishery. Essentially, Congress is agreeing with what many folks have said of this fishery: ''if it's not broken, don't fix it.'' I am glad Congress could work together in a bipartisan fashion to pass this common-sense legislation.●

THE SALTON SEA RECLAMATION ACT OF 1998

● Mrs. BOXER. Mr. President, I am so pleased that the 105th Congress has approved H.R. 3267, the Salton Sea Reclamation Act of 1998. This legislation is an important step toward an efficient and responsible restoration of the unique Salton Sea ecosystem.

Earlier this year, I introduced S. 1716, the Senate version of the Salton Sea restoration legislation. H.R. 3267 includes portions of my legislation. Although it does not authorize all of the steps necessary to complete the recovery of the Salton Sea as my bill would have done, it is a necessary step toward that goal.

Over the years, scientists, communities and politicians alike have been trying to draw national attention to the decline of the Salton Sea. Our late friend and colleague, Representative Sonny Bono, who died in a tragic skiing accident in January, worked tirelessly to make this issue an environmental priority for this Congress.

The Salton Sea is a unique natural resource in Southern California. Created in 1905 by a breach in a levee along the Colorado River, the Salton Sea is California's largest inland body of water. It is one of the most important habitats for migratory birds along the Pacific Flyway.

For 16 months after the breach, the Colorado River flowed into a dry lakebed, filling it to a depth of 80 feet. For a time following the closure of the levee, the water levels declined rapidly as evaporation greatly exceeded inflow. A minimum level was reached in the 1920s, after which the sea once again began to rise, due largely to the importation of water into the basin for agricultural purposes from the New and Alamo Rivers.

Since there is no natural outlet for the sea at its current level, evaporation is the only way water leaves the basin. All the salts carried with water that flows into the sea have remained there, along with salts re-suspended from prehistoric/historic times by the new inundation. Salinity is currently more than 25 percent higher than ocean water, and rising.

This extreme salinity, along with agricultural and wastewater in the sea, are rapidly deteriorating the entire ecosystem. The existing Salton Sea ecosystem is under severe stress and nearing collapse, with millions of fish and thousands of bird die-offs in recent years. Birds and fish that once thrived here are now threatened with death and disease as the tons of salts and toxic contaminants that are constantly dumped into the Salton Sea become more and more concentrated and deadly over time. The local economy is also being affected by the disaster at the Salton Sea by the loss of recreational opportunities, decrease in tourism, and the impact on agriculture.

We all now agree that we must take the necessary long-term and short-term steps to stabilize salinity and contaminant levels to protect the dwindling fishery resources and to reduce the threats to migratory birds. However, there is no consensus on how that should be done.

The Salton Sea Reclamation Act should answer those questions. It requires the Interior Department to report to Congress within two years on the options for restoring the Salton Sea, including a recommendation for a preferred option. Interior will review ways to reduce and stabilize salinity, stabilize surface elevation, restore the health of fish and wildlife resources and their habitats, enhance recreational use and economic development, and continue the use the Salton Sea for irrigation drainage.

When this report is submitted to Congress, we will then have the information necessary to act swiftly to authorize construction of a restoration project.

It has taken the hard work and dedication of many individuals to make this legislation a success. I would like to thank members of the Salton Sea Authority, including the Imperial County Board of Supervisors, the Riverside County Board of Supervisors, the Imperial Irrigation District, and the Coachella Valley Water District, the National Audubon Society, the Department of the Interior, Congresswoman MARY BONO, Congressman GEORGE BROWN, Congressman HUNTER, and the entire Salton Sea Task Force, Senator KYL and Senator CHAFEE.

Scientists have warned that the Salton Sea will be a dead sea within fifteen years. This legislation is an integral step to ensure that we avoid such a disaster.

I am pleased that my House and Senate colleagues have agreed to this necessary and important legislation that will not only benefit Californians and our natural heritage, but will also

carry on the legacy of Representative Bono.●

THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

● Mr. REED. Mr. President, I speak today about passage of the conference report on the Securities Litigation Uniform Standards Act of 1998, S. 1260. Recently, the report was agreed to by both chambers of Congress and sent to the President for his signature.

I supported the Private Securities Litigation Reform Act of 1995 as well as S. 1260. I did so because I recognize the national nature of our markets as well as the need to encourage capital investment. I am pleased that we have been able to further these goals through this legislation. However, I am concerned by the attempt of a few to lessen the obligations owed investors.

Particularly troubling has been the incorrect use of legislative history to imply that a defrauded investor, now barred from discovery prior to the adjudication of a motion to dismiss, must include, in a pleading, evidence of conscious attempts to defraud by the defendant. First, no such implication was made by the 1995 bill. Second, no bill would have passed if such implications were included in the 1998 legislation. Thus, allegations of motive, opportunity, and recklessness, as well as conscious fraud, continue to satisfy the requirements of a 10b(5) pleading. This is the rigorous, but time-tested standard for pleading which has been applied in the Second Circuit. This is the standard that we adopted in 1995, and the national standard created by S. 1260.

The legislative history most frequently cited incorrectly is the Presidential veto message which accompanied his rejection of the 1995 bill; a veto which was overridden. I cannot understand why any weight would be given to the President's interpretation of a bill he vetoed. The purpose of any veto message is to portray the bill as negatively as possible, to avoid a veto override. Accusations the President made about the pleading standard were not only overblown, they were specifically rejected during debate after the veto and prior to the veto override.

Mr. President, as the Senate considered partially preempting state law, many Senators, including the primary sponsors of the bill, made clear that preemption would only occur if the federal standard insured investors protections from fraud. Most importantly this means a proper pleading standard and scienter requirement. This view was shared by Chairman Levitt of the Securities Exchange Commission. This is reflected in Chairman Levitt's testimony before Congress, in correspondence between the SEC and the Senate sponsors of the bill, as well as in statements by Banking, Housing and Urban Affairs Committee Chairman D'AMATO and the Ranking Member of the Securities Subcommittee, Senator DODD.

Recent events in foreign markets have made all too clear the havoc that results when investors are not fully apprized of substantial risks and rewards associated with investments. The Senate made clear that, in enacting partial preemption, it would not tolerate implementation of untested standards concerning the obligations owed investors. Nor, might I add, did industry proponents of the bill ask for a lessening of these standards.

In order to better illustrate this point, Mr. President, I ask that a letter I sent to Members of the Conference Committee on S. 1260 be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, October 2, 1998.

Chairman ALFONSE M. D'AMATO,
Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I write to you as a conferee on the Securities Litigation Uniform Standards Act of 1998, S. 1260. As you know, I supported passage of this legislation, and voted to override the President's veto of the Private Securities Litigation Reform Act of 1995. While class action suits are frequently the only financially feasible means for small investors to recover damages, such lawsuits have been subject to abuse. By creating national standards, such as those in S. 1260, we recognize the national nature of our markets and encourage capital formation.

However, it is essential to recognize that preemption marks a significant change concerning the obligations of Congress. When federal legislation was enacted to combat securities fraud in 1933 and 1934, federal law augmented existing state statutes. States were free to provide greater protections, and many have. Many of our colleagues voted for the 1995 legislation knowing that if federal standards failed to provide adequate investor protections, state law would provide a necessary backup.

With passage of this legislation, Congress accepts full and sole responsibility to ensure that fraud standards allow truly victimized investors to recoup lost funds. Only a meaningful right of action against those who defraud can guarantee investor confidence in our national markets. Recently, on the international stage, we have seen all too clearly the problem of markets which fail to ensure that consumers receive truthful, complete information.

Therefore, my support for this bill rests on the presumption that the recklessness standard was not altered by either the 1995 Act or this legislation. I strongly endorsed the Senate Report which accompanies this legislation because it stated clearly that nothing in the 1995 legislation changed either the scienter standard or the most stringent pleading standard, that of the Second Circuit. This language was central to the legislation receiving the support of Chairman Levitt of the Securities and Exchange Committee. It was also central to my support.

As the Senate Banking Committee recognized at his second confirmation hearing, Chairman Levitt has a lifetime of experience as both an investor and regulator of markets. That experience has led him to be the most articulate advocate of the need for a recklessness standard concerning the scienter requirement. In October 21, 1997 testimony before a Subcommittee in the House of Representatives, Chairman Levitt said, ''[E]liminating recklessness . . . would be tantamount to eliminating manslaughter from the criminal laws. It would be like saying you have to prove intentional murder or the defendant gets off scot free. . . . If we were to lose the reckless standard we would leave substantial numbers of the investing public naked to attacks by . . . schemers.''

In testimony before a Senate Banking Subcommittee, on October 29, 1997, Chairman Levitt further articulated his position regarding the impact of a loss of the recklessness standard. He said, ''A higher scienter standard (than recklessness) would lessen the incentives for corporations to conduct a full inquiry into potentially troublesome or embarrassing areas, and thus would threaten the disclosure process that has made our markets a model for nations around the world.''

The danger posed by a loss of recklessness to our citizens and markets is clear. We should not overrule the judgement of the SEC Chair, not to mention every single Circuit Court of Appeals that has adjudicated the issue. I would assume that the motives which led to SEC and the Administration to insist on the Senate Report language concerning recklessness would also apply to their views of the Conference Report.

With regard to the pleading standard, some Members of Congress, and, unfortunately, a minority of federal district courts, have made much of the President's veto measure of the 1995 legislation. Specifically, some have pointed out that the President vetoed the 1995 bill due to concerns that the Conference Report adopted a pleading standard higher than that of the Second Circuit, the most stringent standard at that time. As I, and indeed a bipartisan group of Senators and Representatives, made clear in the veto override vote, the President overreached on this point. The pleading standard was raised to the highest bar available, that of the Second Circuit, but no further. In spite of the Administration's 1995 veto, this preemption gained the support of Chairman Levitt. It is, therefore, difficult to understand how some can argue that the 1995 legislation changed the pleading standard of the Second Circuit.

The reason for allowing a plaintiff to establish scienter through a pleading of motive and opportunity or recklessness is clear. As one New York Federal District Court has stated, ''a plaintiff realistically cannot be expected to plead a defendant's actual state of mind.'' Since the 1995 Act allows for a stay of discovery pending a defendant's motion to dismiss, requiring a plaintiff to establish actual knowledge of fraud or an intent to defraud in a complaint raises the bar far higher than most legitimately defrauded investors can meet.

Firms which advocate for S. 1260 do so based on the need to eliminate the circumvention of federal standards and federal stays of discovery through state court filings. They do not argue for a lessening of the obligations owed investors. I am concerned that should the conference committee include language which could be interpreted to eviscerate the ability of plaintiffs to satisfy the scienter standard by proof of recklessness or to require plaintiffs, barred from discovery, to adhere to a pleading standard requiring conscious behavior, the bill will lose the support of Chairman Levitt and many Members of Congress. I urge the Conference to support language included in the Senate Report and move forward with a bill that a bipartisan group in Congress can support and the President can sign.

Sincerely,

JACK REED,
U.S. Senator.

Mr. REED. Mr. President, I respectfully point out that the letter was sent during the Conference Committee negotiations on the bill and illustrates

the fact that the Senate was unwilling to alter positions it established in Senate passage of S. 1260. I appreciate the opportunity to clarify the debate surrounding this issue. I commend Chairman D'AMATO and Senator DODD for their work on this bill. They have furthered the goal of capital formation while ensuring proper protections for consumers.●

TRIBUTE TO STATE REPRESENTATIVE MORRIS HOOD, JR.

● Mr. LEVIN. Mr. President, earlier this month, a powerful voice for fairness and compassion fell silent with the untimely death of State Representative Morris Hood, Jr.

Representative Hood served in the Michigan House of Representatives for 28 years, representing a part of the City of Detroit, my home town. He was the Chairman of the House Appropriations Committee. He distinguished himself in that role by fighting to make education accessible to all people. He strove to give everyone the opportunity to go to school, to obtain a job and earn a living. He was the primary founder of the King-Chavez-Parks initiative, which has provided thousands of dollars in scholarship money to deserving minority students. He was a believer in a positive role for government in our society. He once said, ''There are some things government is meant to do. One of the them is to take care of those who can't take care of themselves.''

Morris Hood, Jr. recognized the painful effects of discrimination and sponsored legislation to give small and minority owned businesses the ability to compete for state contracts. Foremost of all, Morris Hood was a promoter of the City of Detroit. He saw in Detroit a community full of possibilities, inhabited by people full of potential. He saw as his responsibility to use government as one means to unlock that potential. That is why he was such a strong supporter of Focus: HOPE, an organization that is near and dear to my heart. His voice will be dearly missed. Our hearts go out to his children, Denise and Morris III.

Mr. President I ask my Senate colleagues to join me in honoring the memory of a passionate legislator, State Representative Morris Hood, Jr.●

OUR UNFINISHED WORK TO PROTECT PRIVACY RIGHTS

● Mr. LEAHY. Mr. President, the American people have a growing concern over encroachments on personal privacy. It seems that everywhere we turn, new technologies, new communications media, and new business services created with the best of intentions and highest of expectations also pose a threat to our ability to keep our lives to ourselves, to live, work and think without having giant corporations or government looking over our shoulders, or peeking through our keyholes.

The current national media obsession with the Monica Lewinsky scandal has focused attention on abuses of power by independent counsel Kenneth Starr. I have been a prosecutor, and I am intimately familiar with the enormous power prosecutors wield. This power is generally circumscribed by a sense of honor and by professionalism, and for those for whom this is not enough, by the Bar's canons of ethics and disciplinary rules and, for federal prosecutors, the rules and regulations of the Department of Justice.

Mr. Starr has a different view of these obligations, and privacy has been the first casualty. He began his investigation into the President's personal life by using the results of an illegal wiretap. The State of Maryland protects its residents from having private conversations tape recorded without their knowledge or consent. Mr. Starr condoned the deliberate flouting of that law by granting the perpetrator immunity and then using the illicit recordings to persuade the Attorney General to expand his jurisdiction.

That was just the beginning. In February, Prosecutor Starr forced a mother to travel to the country's Capital to sit before a federal grand jury, with no right to have counsel present, and reveal the most intimate secrets of her daughter. That led me to introduce legislation to develop Federal prosecutorial guidelines to protect familial privacy and parent-child communications in matters that do not involve allegations of violent conduct or drug trafficking.

Mr. Starr issued subpoenas to bookstores to pry into what we read and further encroached upon our First Amendment rights with subpoenas to reporters, at every step acting contrary to Justice Department guidelines. He intruded into the attorney-client privilege, and even required Secret Service agents to gossip about those whom they are sworn to protect, and whose privacy they have safeguarded for decade upon decade. Then all of the private information he gathered, all of the excruciating details of personal life, appeared almost contemporaneously in the public press, attributed to unidentified sources, despite the command of the law that all matters before a grand jury remain secret.

The independent counsel law was passed with the best of intentions, with my support. I never imagined that the power would be so abused, and privacy so ignored. But that is the point. We must act to prevent abuses of privacy.

Mr. Starr, by his gross excesses, has become a symbol of the threat to privacy and the threat to individual liberty from abuse of power and information. That threat has been amplified by the unseemly haste with which the Republican majority on the House Judiciary Committee voted to plaster the mud from Ken Starr's report all over the Internet, so that literally all the world would have a chance to peek through the keyhole. This intemperate action, in an unabashed effort to gain political advantage at the expense of privacy and dignity, should be a lesson to the American people that we need additional legal protection to protect their privacy.

The far more pervasive problem is the incremental encroachment on privacy through the lack of safeguards on personal, financial and medical information about each of us that can be stolen, sold or mishandled and find its way into the wrong hands with a push of a button.

The right of privacy is one of the most vulnerable rights in the information age. The digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. But the new technology also presents new threats to our individual privacy and security, in particular, our ability to control the terms under which our personal information is acquired, disclosed, and used.

The threats are there, but so are the solutions, if we only take the time to look for them. For example, this Congress passed legislation that will make the United States government more accessible and accountable to the citizenry by directing Federal agencies to accept ''electronic signatures'' for government forms that are submitted electronically. When the bill was reported out of committee, it established a framework for government use of electronic signatures without putting in place any privacy protections for the vast amounts of personal information collected in the process. I was concerned that citizens would be forced to sacrifice their privacy as the price of communicating with the government electronically. Senator ABRAHAM and I corrected this oversight by adding forward-looking privacy protections to the bill, which strictly limit the ways in which information collected as a byproduct of electronic communications with the government can be used or disclosed to others.

As I remarked when the bill passed, however, this is just the beginning of Congress's efforts to address the new privacy issues raised by electronic government and the information age. Congress will almost certainly be called upon in the next session to consider broader electronic signature legislation, and issues of law enforcement access to electronic data and mechanisms for enforcing privacy rights in cyberspace will need to be part of that discussion.

The government also holds tens of millions of medical records of individuals covered by Medicare, Medicaid and other federal health programs. This information is routinely released by the government in individually-identifiable form for purposes such as medical research or in order to ferret out fraud

and abuse. These are laudable activities, but without setting strong standards for an entity to meet before gaining access to this information there is the possibility of misuse and abuse of this very sensitive personal information.

We have a Federal Privacy Act in this country that has not been substantially changed since its passage almost 25 years ago. One purpose of the Privacy Act was to protect our citizens from government intrusion and the sharing of data across agencies without the knowledge or consent of the subject of the information. Yet, the Privacy Act contains a problematic ''routine use'' exception, which is already a huge loophole to use health and other information for any purpose.

I first noted my concern with this loophole during congressional hearings in 1996 on the transfer by the FBI of background investigation files to the White House for former Republican White House employees. The FBI admitted that it made these transfers pursuant to the ''routine use'' exception. Ironically, more information from the confidential FBI background files were revealed to the public in the course of congressional hearings than from any action taken elsewhere. For example, it was a House Committee that first revealed the names of people whose file summaries were requested. It was also a House Committee that used information from a Clinton White House employee's file to embarrass him and it was a House Chairman who ''went public'' with the confidential FBI background memo from the employee's background file in a statement made on the floor of the House. That is why during those hearings, on September 25, 1996, I called for a reexamination of the Privacy Act and tightening of the routine use loophole.

My concern is heightened by a July 16, 1998, published notice by the Health Care Financing Administration to add new ''routine uses'' to the Privacy Act. The proposal is very broad. In the name of combating fraud and abuse, this proposal would permit the release of individual specific information to any governmental or non-governmental entity that has anything to do with health care. This new HCFA ''routine use'' exception proposal turns our notion of privacy protection on its head, and makes more urgent the need for review of and restrictions on the ''routine use'' of private medical and other information collected and held by the government.

At a time when the Congress and the Administration are grappling with how best to protect the privacy of individually-identifiable medical records in the private health care sector, we better make sure that we have our own house in order. I introduced legislation in this Congress that would help protect the privacy of individually-identifiable medical records, and I plan to expand on that initiative in the next Congress to ensure that such records are not mishandled by Federal agencies.

The next Congress will also need to consider how our privacy safeguards for personal, financial and medical information measure up to the tough privacy standards established by the European Union. The EU Data Protection Directive is set to take effect next week. That could be a big problem for American businesses, since the new rules require EU member countries to prohibit the transmission of personal data to or through any non-EU country that fails to provide adequate data protection as defined under European law. European officials have said repeatedly over the past year that the patchwork of privacy laws in the United States may not meet their standards. Our law is less protective than EU standards in a variety of respects on a range of issues, including requirements to obtain data fairly and lawfully; limitations on the collection of sensitive data; limitations on the purpose of data collection; bans on the collection and storage of unnecessary personal information; requirements regarding data accuracy; limitations regarding duration of storage; and centralized supervision of privacy protections and practices.

The flow of information from Europe may not stop suddenly on Monday, but the clock is ticking. Europe is committed to enforcing the Directive. Our continued failure to address this issue could have serious economic consequences for U.S. firms and transborder data flows.

When we do address this issue—hopefully early in the next Congress—we may find that the problem is not that Europe protects privacy too much. We may find that the problem is our own failure to keep U.S. privacy laws up to date. The EU Directive is an example of the kind of privacy protection that American consumers need and do not have. It has encouraged European companies to develop good privacy techniques. It has produced policies, including policies on cryptography, that are consistent with the interests of both consumers and businesses.

Even if we decide not to lock in the commands of the EU Data Directive, we can learn from it. Marc Rotenberg, the Director of the Electronic Privacy Information Center, made this point eloquently earlier this year, when he testified before the House Committee on International Relations: ''The EU Data Directive is not so much a problem as it is a reminder that our privacy laws are out of date.'' I agree with his conclusion that, in the end, ''we need stronger privacy safeguards not to satisfy European government, but to assure the protection of our own citizens.''

There is a cartoonish quality to the excesses of Ken Starr and the hamhandedness of the House Republican leadership, who seem to be vying for the title of poster child for privacy reform legislation. This could lull us into a false sense that their sort of nonsense may be pernicious, but it is not something that affects the average citizen. Do not be misled. It bears repeating again and again that personal, financial and medical information of any American can fall into the wrong hands.

Americans are rightly concerned about the adequacy of privacy protection in this country. Indeed, this is a matter that concerns all Americans in the most personal of ways.

The European Union has responded to the demands of the information age with tough privacy standards. The privacy protections in our new digital signature legislation show that we can get ahead of the curve, anticipate problems and head them off even before they arise, if only we give the matter the attention it deserves.●

WORLD POPULATION AWARENESS WEEK

● Mr. KOHL. Mr. President, I rise today to call World Population Awareness Week 1998 to the attention of my colleagues. October 24–31st marks the 13th annual celebration of World Population Awareness Week. More than 300 family planning, environmental, educational, community and service organizations in 61 countries are co-sponsoring the week in an effort to raise awareness of the need for universal voluntary family planning.

I call Governor Tommy G. Thompson's proclamation to the attention of my colleagues. I am pleased to note that Jeannette Bell, Mayor of West Allis has agreed to proclaim World Population Awareness Week as well.

I ask that the proclamation be printed in the RECORD.

The proclamation follows:

WORLD POPULATION AWARENESS WEEK PROCLAMATION—1998

Whereas world population stands today at more than 5.9 billion and increases by more than 80 million per year, with virtually all of this growth in the least developed countries;

Whereas the consequences of rapid population growth are not limited to the developing world but extend to all nations and to all people, including every citizen of the State of Wisconsin concerned for human dignity, freedom and democracy, as well as for the impact on the global economy.

Whereas 1.3 billion people—more than the combined population of Europe and North Africa—live in absolute poverty on the equivalent of one U.S. dollar or less a day;

Whereas 1.5 billion people—nearly one-quarter of the world population—lack an adequate supply of clean drinking water or sanitation;

Whereas more than 840 million people—one fifth of the entire population of the developing world—are hungry or malnourished;

Whereas demographic studies and surveys indicate that at least 120 million married women in the developing world—and a large but undefined number of unmarried women—want more control over their fertility but lack access to family planning;

Whereas this unmet demand for family planning is projected to result in 1.2 billion unintended births;

Whereas the 1994 International Conference on Population and Development determined that political commitment and appropriate

programs aimed at providing universal access to voluntary family planning information, education and services can ensure world population stabilization at 8 billion or less rather than 12 billion or more. Now, therefore, I Tommy G. Thompson, Governor of the State of Wisconsin, do hereby proclaim the week of October 25–31, 1998 as World Population Awareness Week, and urge citizens of the State to take cognizance of this event and to participate appropriately in its observance.●

TRIBUTE TO FRANKIE YANKOVIC, AMERICA'S POLKA KING

Mr. FEINGOLD. Mr. President, on October 15th, America lost it's reigning Polka King, and Wisconsin lost a beloved friend: Frankie Yankovic.

From the day he debuted in the Milwaukee area at Bert Phillips Ballroom in Menomonee Falls, Frankie Yankovic has had a special place among Wisconsin's polka fans. Wisconsinites loves to polka, so much so that it's our state's official dance. And no polka musician has won more accolades, had more devoted fans, or taught more Americans to love that simple dance than Frankie Yankovic.

While he was born in West Virginia and was a long-time resident of Cleveland, Frankie Yankovic felt a special connection to Milwaukee. ''I should have come here and made Milwaukee my hometown,'' he once said. There is nothing we'd have liked better, but Wisconsinites were lucky for the many chances we've had to enjoy Yankovic's music, and to pay tribute to his myriad achievements in the music world.

In fact, it was in Milwaukee that Yankovic was crowned as America's Polka King in 1948. Just one year later, his ''Blue Skirt Waltz'' hit number two on Columbia Records' bestseller list, just behind Gene Autry's ''Rudolph the Red-Nosed Reindeer,'' one of the best-selling records of all time. He was the first inductee to both the Polka Hall of Fame in Minnesota in 1988 and the Wisconsin Polka Hall of Fame in 1996.

Yankovic didn't just contribute to popular music, he revolutionized it by infusing traditional polka music with a smoother style, and introducing new instruments, such as the bass fiddle, to polka arrangements.

Throughout his career, Yankovic's singular style energized audiences. His compositions were legendary, including such Wisconsin-inspired tunes as the ''Kringleville Polka,'' about Racine, and ''There's No Joy Left Now in Milwaukee,'' about the Braves leaving for Atlanta.

Yankovic was a man who made audiences roar and floors shake as he brought capacity crowds to their feet to do that simple step that just, as Yankovic put it, ''makes people happy.'' He often rallied audiences by asking ''What do you think this is, a concert? Let's get up and dance!''

Milwaukeeans know that Frankie Yankovic was loved coast to coast, appearing on Johnny Carson and performing with the likes of Milton Berle and Doris Day. And we know that Cleveland was his permanent address. But in Wisconsin, we proudly count him as one of our own. ''I love Milwaukee,'' he often said, and Milwaukee loved him back. On behalf of the people of Wisconsin, I thank Frankie Yankovic for the happiness he brought to Wisconsin's polka fans over the years, and I pay tribute to his memory.●

CONGRESS AGAIN FAILS TO CLEAN UP BROWNFIELDS

● Mr. LAUTENBERG. Mr. President, I very much regret that once again—for the 3rd Congress, that's six years—the Congress has refused to take action on brownfields legislation because of unrelated and very controversial issues related to the Superfund program.

As I have for three Congresses, on the very first day of the 105th Congress, along with ten other Senators, I introduced S. 18, a bill to encourage brownfields revitalization efforts. Brownfields are abandoned, or idle, former industrial properties which may or may not be contaminated. Brownfields exist in cities, suburbs and rural areas. Their reuse can result in badly needed jobs and significant revenues along with environmental cleanup of hundreds of thousands of communities across the country. One section of S. 18 established an exemption from potential Superfund liability for developers who clean up brownfields but had nothing to do with any contamination that might be present. These provisions merely clarified that Congress did not intend the specter of Superfund liability to deter the purchase and redevelopment of brownfields properties. This simple clarification has long enjoyed broad-based, bipartisan support.

Mr. President, on November 7, 1997, I also introduced S. 1497. This bill is in some ways analogous to the brownfields bill, in that it provides an exemption from Superfund liability for homeowners, small businesses, and non-profit organizations which sent only municipal solid waste to Superfund sites.

Mr. President, S. 1497 was, so to speak, dedicated to Barbara Williams, and all those like her, who got caught up unfairly in a litigation web that the Congress never intended when Superfund was written. Barbara Williams is the owner of Sunny Ray Restaurant. Ms. Williams was sued and asked to pay for cleanup of a Superfund site, though she only disposed of mashed potatoes and other restaurant waste at that site. She has testified before the Environment and Public Works Committee twice.

Mr. President, I find it appalling that this woman was stuck in a Superfund lawsuit, brought by industries that had polluted the site but did not want to pay to clean up their mess. S. 1497 included a provision clarifying that Congress did not intend parties such as homeowners, pizza parlor owners, or girl scouts—that disposed only of household, or household-like trash—to be subject to suit under Superfund. Like brownfields liability exemptions, these exemptions for innocent parties enjoy broad, longstanding, bipartisan support.

Mr. President, this is the third consecutive Congress we have negotiated comprehensive Superfund reform, but failed to pass legislation. In the 103rd Congress, the Committee marked up a comprehensive Superfund reform bill that boasted unusually broad-based support, and reported it out on an 13:4 vote. But for reasons which had little to do with Superfund, for reasons that were blatantly political, the bill was not enacted into law. In the 104th Congress, consensus evaporated, and the Republican Majority introduced comprehensive reform bills that can only be described as extreme. In the 105th Congress, the parties got closer, yet, despite the hundreds of hours of work by our staffs, did not get close enough. I personally spent weeks negotiating painstaking details of this complex statute. But unfortunately, rather than resolve remaining differences, the Committee elected to proceed to a partisan mark-up. Indeed, it reported its Superfund bill, S. 8, almost entirely along party lines, with the vote on final passage at 11:7.

Mr. President, the Committee may or may not take up comprehensive reform again in the 106th Congress. Given GAO's August, 1998 report finding that EPA has already selected remedies at 95% of non-federal Superfund sites, I question whether this effort is at all worthwhile. But the battle lines are beginning to be drawn. It is reported that some are urging industry to spend as much as did the tobacco industry—some $40 million—to have their way.

But while my Republican colleagues persist in an all or nothing strategy, I urge that this body be cognizant of the price exacted by this approach. This posture essentially takes our nation's cities and small businesses as hostages in a war over Superfund. And the consequences are very real.

The nation's Mayors estimate they lose between $200 and $500 million a year in tax revenues from brownfields sitting idle, and that returning these sites to productive use could create some 236,000 new jobs. They, as well as developers and bankers, say immediate action is imperative, since new tax laws provide incentives for brownfields redevelopment, but expire in 2001. In short, the window is narrow during which brownfields reform will make any difference at all. Each day Congress fails to act on brownfields liability, it deprives our cities of unique redevelopment opportunities.

And as for municipal solid waste, as Mrs. Williams testified, neither her lawyer's fees nor her settlement costs are covered by insurance, nor are they business expenses she can deduct. She must make enough money to pay these penalties on top of her other bills and her payroll. Each day Congress fails to

free Barbara Williams and requires that she pay still more lawyers' fees, Congress adds to her burden, or as she testified, expands the ''cloud'' cast over her head.

Mr. President, I submit that holding these non-controversial, practical and entirely beneficial bills hostage to an ideological fight over the Superfund program is not in the public interest. I am very disappointed that for the sixth year in a row, we withheld action on legislation that could provide enormous benefits to the public. This is what gives government a bad name. ●

REAUTHORIZATION OF THE SURFACE TRANSPORTATION BOARD

● Mr. HOLLINGS. Mr. President, I rise today to express my disappointment that S. 1802, the reauthorization of the Surface Transportation Board (Board), failed to pass the Senate. I have spoken out in favor of the Board on many occasions. I want to reemphasize today my commitment to seeing that the Board will be in business for a long time and will be given the resources that it needs to continue its vital work.

The Board is the independent economic regulatory agency that oversees the Nation's rail and surface transportation industries. A healthy transportation system is critical to sustaining a vibrant and growing economy. Under the able and forward-looking leadership of Linda Morgan, the Board's Chairman, who was with us on the Commerce Committee for many years, the Board has worked to ensure that the transportation system is both healthy and responsive. Although it was established to be principally an adjudicatory body, the Board has reached out to the transportation community in an unprecedented way. It has handled the crisis in the West appropriately, letting the private sector work it out where possible, but intervening when necessary. It has initiated proceedings at the request of Senator MCCAIN and Senator HUTCHISON to review the status of access and competition in the railroad industry, and its actions have produced a mix of government action and private-sector solutions. With its staff of 135, it puts out more work than much larger agencies, issuing well-reasoned, thoughtful, and balanced decisions in tough, contentious cases. Just recently, in the Conrail acquisition case, the Board issued one such decision that is good for my State, and for the Nation.

But the Board is stretched thin. It needs to train new people to replace the many employees who are likely to retire soon. And next year, it will continue to expend resources monitoring the implementation of the Conrail acquisition and the rest of the rail network. The Board needs adequate resources to do the hard work that we expect it to do.

Because we need the Board, and because the Board has done a fine job, I am here today supporting a clean reauthorization bill. I supported the Staggers Act when it was passed, and I think in large part it has been a success.

I know that there is some concern about how our transportation system ought to look, and that there are many important issues on the table right now. Several of those issues are being handled by the Board, in connection with its competition and access hearings. I am confident that the Board will do the right thing with the issues before it.

However, some of the tougher issues that have not yet been resolved—for example, the substantially more open access that some shippers want—are not for the Board. They are for us, and they are real. But the fact that the railroads and those who use the system have a lot of ground to cover on these legislative issues should not hold up the Board's reauthorization. Legislative change is our job. The Board, working with the law we gave it, has done its job. I want to thank the Board in general, and Chairman Morgan in particular, who has my unqualified support, for a job well done. The Nation needs agencies like the Board and public servants like Chairman Morgan.●

TRIBUTE TO FORMER STATE REPRESENTATIVE PERRY BULLARD

● Mr. LEVIN. Mr. President, I rise to speak of the untimely death of former Michigan State Representative Perry Bullard.

Perry Bullard had a sharp mind, and a tongue to match. He has been called outspoken and abrasive. But what he really was was a passionate legislator. He had a fundamental belief in democracy, and the protection of individual liberties. He served in the Michigan House of Representatives for 20 years, rising to the position of Chairman of the House Judiciary Committee. His commitment to the rights of individuals in a democracy and the rights of individuals to access their government are evidenced by the bills he sponsored which have become law. He wrote the Michigan Open Meeting Act, the state Freedom of Information Act, the Whistleblower Protections Act and the Polygraph Protections Act. He was behind the passage of the state's Statutory Will Act, which created a fill-in-the-blank will form that allows people to write their own wills. Equally important to the bills he passed were the bills he stopped. He prevented passage of legislation to loosen requirements for police wiretaps, and to allow for police entering homes without a warrant. Perry Bullard was a liberal, and unabashedly so. He believed that being liberal meant protecting liberty. For him protecting liberty meant putting the interests of the public ahead of those of the state. He will be missed and our hearts go out to his wife, Kelly.

Mr. President I ask my Senate colleagues to join me in honoring the memory of a passionate legislator, Perry Bullard.●

BILL LANN LEE

● Mrs. BOXER. Mr. President, I want to express my deep disappointment and sadness that the Senate has failed to act on the nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights at the Department of Justice.

Bill Lann Lee's nomination was sent to the Senate in July, 1997. I had the honor of introducing him to the Judiciary Committee, and I have spoken to the Senate numerous times to urge his confirmation. In my travels throughout my home state of California, I have heard over and over from his supporters, ''please make sure Bill Lann Lee gets confirmed.''

I cannot explain why the Senate failed to act on this eminently qualified nominee. I can only guess that an eminently qualified candidate fell victim to partisan politics. Mr. Lee has served for 10 months as the Acting Assistant Attorney General for Civil Rights because the Judiciary Committee refused to report the nomination. The Committee did not act because it did not wish the full Senate to vote—because the majority of that Committee knew that Bill Lann Lee would be confirmed if a vote were taken.

If any member of this body does not wish to confirm one of the President's nominees, then he or she should have the courage to vote that nominee down. But that did not happen.

In all this time, one thing is certain; those who know Mr. Lee, and those who are aware of his record, know Mr. Bill Lann Lee is the best person for the position of Assistant Attorney General for Civil Rights at the Department of Justice. Unfortunately, this nomination has been held back by a few senators who oppose Mr. Lee as head of the Civil Rights Division because, oddly enough, Mr. Lee believes strongly in civil rights.

I want the record to be clear about Bill Lann Lee, his personal history and his professsional credentials, both of which make him the perfect candidate to be Assistant Attorney General for Civil Rights.

Bill Lann Lee was born in Harlem, the son of hardworking, patriotic, immigrant parents who came to this country because they believed America was the land of opportunity. His father, William Lee, not only spoke of this, but also showed his son by example, that a penniless immigrant who works hard in this country can make a better life for himself and for his family. Many of us know the senior Lee was a laundryman in New York, who faced daily unspeakable discrimination. What some of my colleagues may not know is that the senior Lee volunteered in the U.S. Army Air Force during World War II. He fought overseas for America and all that America

stands for, and he advanced to corporal, where as an Army soldier, he was treated just like everyone else.

Bill Lann Lee took to heart these lessons of hard work and dedication to America's values. He attended the renowned Bronx High School of Science. He went on to attend Yale on a scholarship and graduated Phi Beta Kappa and magna cum laude. He received his law degree from Columbia University Law school.

Attending school, Mr. Lee was one of the most formally dressed students. He frequently wore white dress shirts to class, while his classmates wore sweatshirts with college logos. When I think of the reason why Bill Lann Lee wore white dress shirts every day, tears well up in my eyes.

Bill Lee, who came from poverty, wore white dress shirts because these were the shirts left behind at his parents' laundry business. Bill Lee wore the clothes that were forgotten by others. He wore the clothes that his parents toiled over, despite the cramp conditions in their tiny laundry, despite the fact they all ate their meals amidst piles of dirty laundry. All this in hopes that one day their children would make something of themselves—an immigrant's dream—the American dream. And Bill Lann Lee wore those white dress shirts with pride, to save money for his family, to save money for his education, all this in hopes that one day he would fulfill that dream, and make something of himself.

Mr. Lee spent most of his 24-year legal career with the NAACP Legal Defense and Educational Fund, which was founded by the late Supreme Court Justice, Thurgood Marshall. Lee left the Legal Defense Fund in 1983 and worked for the Center for Law in the Public Interest, but eventually returned to the Legal Defense Fund in 1988.

During the course of his career, Mr. Lee showed his ability to build consensus and coalitions, fostering negotiations and settlements even as he litigated contentious civil rights cases. An example of this is a case alleging that Vons Grocery Stores' hiring practices kept women and minorities locked in entry-level jobs. Lee's skill to seek a settlement resulted in the praise of Vons' general counsel because the court decree expressly stated Vons was not required to meet quotas or hire unqualified individuals, but that Vons must show a good faith effort for hiring and promoting qualified minority employees.

While Bill Lee's record speaks volumes, many have felt they wanted to add a few words.

In a letter to Erskine Bowles, Mayor Richard Riordan of Los Angeles explained that Mr. Lee was opposing counsel in an important civil rights case (Labor/Community Strategy Center v. Los Angeles County Metropolitan Transportation Authority) which was ultimately settled. Mayor Riordan writes, ''The work of my opponents rarely evoke my praise, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise.'' Mayor Riordan believes Mr. Lee to have a stellar track record as a civil rights litigator, and in closing, writes: ''Mr. Lee has practiced mainstream civil rights law. He does not believe in quotas. He has pursued flexible and reasonable remedies that in each case were approved by a court.''

Additionally, former U.S. Senator Hiram Fong, a Republican from Hawaii, lends his support to Mr. Lee. Senator Fong, who served in the U.S. Senate for 17 years and was on the Judiciary Committee, states ''I am herewith heartily endorsing the nomination of Bill Lann Lee to the position of Assistant United States Attorney General for Civil Rights . . . His record shows that he is an exceptional litigator with over 20 years experience with civil rights issues.''

Also, William Murphy, District Attorney for Staten Island, New York, wrote on behalf of the National District Attorneys Association in strong support for Bill Lee. Mr. Murphy writes ''I believe that as the Assistant Attorney General for Civil Rights, he will remain fully cognizant of the need and expectations of the people of the United States to be provided effective, efficient and fair law enforcement services. I am convinced that he will do his utmost to insuring that honest and hardworking police officers are not tarnished by the acts of a few miscreants.''

Even Kenneth Klein, the lead attorney on the opposing legal team on the Los Angeles County Metropolitan Transportation Authority case, wrote a letter of support for Mr. Lee. Mr. Klein, a former prosecutor, writes: ''Notwithstanding the significant disparity between Mr. Lee's political philosophy and my own, I cannot think of a better candidate to fill the position of Assistant Attorney General for Civil Rights than Bill Lann Lee.''

Mr. President, again, I deeply regret that the Senate did not have the chance to vote on this nomination. I know that Bill Lann Lee would have been confirmed by a wide margin. I am sorry that those senators who disagreed with the President and his nominees to express that disagreement in the form of a vote.

Mr. President, I ask that these letters of support be printed in the RECORD.

The letters follow:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY OF LOS ANGELES,
OFFICE OF THE MAYOR,
Los Angeles, CA, March 20, 1997.

Re: Bill Lann Lee, candidate for Assistant Attorney General, Civil Rights Division, United States Department of Justice.

ERSKINE BOWLES
Chief of Staff, Office of the President, The White House, Washington, DC.

DEAR MR. BOWLES: I am writing to support the appointment of Bill Lann Lee to the United States Department of Justice position of Assistant Attorney General, Civil Rights Division. Throughout his distinguished career as a civil rights lawyer, Mr. Lee has worked to advance the civil rights progress of the nation and of our richly diverse city of Los Angeles.

In my opinion, Bill Lee is an astute lawyer who is superbly qualified to enforce our national civil rights laws. Mr. Lee's candidacy offers the president an excellent opportunity to reaffirm his strong support of women's rights and civil rights laws.

Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Angeles. As Mayor, I took a leading role in settling that case. The work of my opponents rarely evoke my praise, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise.

I know that his expertise is the result of working twenty-two years in the ''All Star'' leagues of civil rights litigators. His track record is nationally renowned and speaks for itself. Beyond the many victories, what makes his work special is that he has represented clients from every background, including poor whites, women and children suffering from lead poisoning. His admirable ability to win the trust of so many communities is evident in the broad coalition of civil rights and women's rights experts who are backing his candidacy for this position.

Mr. Lee has practiced mainstream civil rights law. He does not believe in quotas. He has pursued flexible and reasonable remedies that in each case were approved by a court.

Mr. Lee is an outstanding citizen of Los Angeles. He has my enthusiastic support and strongest recommendation for the position of Assistant Attorney General for Civil Rights.

Sincerely,

RICHARD J. RIORDAN,
Mayor.

FINANCE ENTERPRISES, LTD.,
Honolulu, HI, August 25, 1997.

To the Members of the Committee on the Judiciary,
U.S. Senate,
Washington, DC.

GENTLEMEN: As one who has served in the United States Senate from the State of Hawaii for seventeen years and as a former member of the Senate Judiciary Committee, I am herewith heartily endorsing the nomination of Bill Lann Lee to the position of Assistant United States Attorney General for Civil Rights.

Mr. Lee has had a very distinguished career in public service especially in matters pertaining to civil rights discrimination.

I have been deeply impressed by Mr. Lee's efforts in behalf of the poor, children, minorities, women and others who seek a more just and fair society. He is able and well qualified for the position he seeks. His record shows that he is an exceptional litigator with over 20 years experience with civil rights issues.

I respectfully request that Mr. Bill Lann Lee's nomination be given an early hearing and that he be given the Committee's endorsement.

With warmest aloha,
Sincerely,

HIRAM L. FONG
U.S. Senator, Retired.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, October 3, 1997.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN HATCH: I strongly support the nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights for the Department of Justice.

Through his work as a Civil Rights attorney, Bill Lann Lee is, I believe, well versed in the problems confronting law enforcement at the community level and in particular in the problems facing our police departments in regard to their relationships with the communities they serve. Crucial to his success as Assistant Attorney General will be his ability to minimize destructive conflict between state, local and federal resources to achieve the goal of bringing peace and harmony to our communities.

In my discussion with him on his goals in his nominative role, Mr. Lee has indicated his strong dedication to seeking out nonconfrontational and alternative methods of resolving the festering problems besetting our police. Moreover, he recognizes that many complaints are without merit and based in perception rather than fact. He is eminently aware that he must make a viable and continual contribution to fostering a stronger working relationships between law enforcement and all segments of our communities to achieve the goal of ending both actual and perceptions of police misconduct.

During our discussions we also addressed how best to accomplish the investigative efforts, involving both local and federal interests, in cases involving police misconduct. He has pledged to work with local leaders to develop protocols to combine efforts to ensure effective use of assets, a fuller development of the pertinent facts and a timelier resolution. This alone would be a lasting contribution if brought to fruition.

I believe that as the Assistant Attorney General for Civil Rights, he will remain fully cognizant of the need and expectations of the people of the United States to be provided effective, efficient and fair law enforcement services. I am convinced that he will do his utmost to insuring that honest and hard-working police officers are not tarnished by the acts of a few miscreants.

Thank you for considering my perspective in considering this important appointment.

Sincerely,

WILLIAM L. MURPHY,
District Attorney, Richmond County, NY

RIORDAN & MCKINZIE,
Los Angeles, CA, September 19, 1997.

Re: Bill Lann Lee

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR HATCH: I am aware of the fact that the Senate Judiciary Committee is considering the nomination of Bill Lann Lee for the post of Assistant Attorney General for Civil Rights. As the lead attorney representing the Los Angeles County Metropolitan Transportation Authority in the case of *Labor/Community Strategy Center, et al.* v. *Los Angeles County Metropolitan Transportation Authority* (the ''LACMTA litigation''), I came to know Bill Lann Lee quite well. We clashed on many issues during the course of that litigation. However, I have nothing but the highest regard for Mr. Lann Lee as an attorney and as a gentleman.

Additionally, as a former prosecutor, it is my belief that the Assistant Attorney General for Civil Rights must be an individual who is pragmatic. During the course of the LACMTA litigation, we were able to work with Mr. Lee to reach compromises on a number of substantial issues—the most important of which was the Consent Decree that resolved the litigation. Were it not for Mr. Lee's pragmatic approach, the parties would never have been able to resolve their differences.

Notwithstanding the significant disparity between Mr. Lee's political philosophy and my own, I cannot think of a better candidate to fill the position of Assistant Attorney General for Civil Rights than Bill Lann Lee.

Sincerely,

KENNETH KLEIN,
of Riordan & McKinzie.●

THE JOURNAL

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Journal of Proceedings be approved to date.

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

RICKY RAY HEMOPHILIA RELIEF FUND ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 707, H.R. 1023.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1023) to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act, would authorize the establishment of a fund from which compassionate payments would be made to people with hemophilia who contracted HIV/AIDS through tainted blood products during the early 1980s. These people were victimized by the failure of the federal government to safeguard these blood products—failures included inadequate measures to screen out high-risk donors and long-delayed recalls of blood products known to pose an elevated risk of infection. During the time period specified in the legislation, approximately 7,200 victims were infected. Each victim—or the victim's family—would receive a single $100,000 payment. The total authorization is $750,000, which would have to be separately appropriated. The relief fund sunsets after 5 years. H.R. 1023 passed the House without objection on the suspension calendar in May. Similar legislation in the Senate (S. 358), which I sponsored, has 62 bipartisan cosponsors.

Mr. JEFFORDS. I rise to make remarks concerning the Ricky Ray Hemophilia Relief Fund Act to provide compassionate payments to hemophiliac victims of the blood supply crisis of the 1980s. The House passed the bill last May; unfortunately the Senate may not be able to pass a bill this year. The tragedy of the blood supply's infection has brought unbearable pain to families all over the country. I have heard from hundreds of these individuals and families over the past months, and I had hoped this bill would bring some closure to the grief of thousands of families who have suffered because of the blood crisis of the 1980s.

I am saddened, however, that the bill that passed the House acknowledged fewer than half the victims of the blood supply crisis. Along with Senators WARNER and FAIRCLOTH, I have fought to include victims of transfusion-associated AIDS in the bill this year. They are victims of the same blood supply crisis and are just as deserving of acknowledgment and compassion from the federal government.

I cannot overstate my disappointment, and I can only imagine their pain. This is a group of people that has suffered a great tragedy. In their minds, in the minds of the hemophiliac community, and in the minds of members who have advocated for the Ricky Ray bill, the federal government played a role in the tragedy. It would be bad enough for the federal government to never step forward and acknowledge the tragedy, but passing a bill without them would have been the worst kind of affront. We would have acknowledged the tragedy, but ignored the distress it has brought to this particular community.

With commitment from a few of my key colleagues that we would pass a bill for transfusion-associated AIDS cases next year, I supported passage of H.R. 1023. I want to take this opportunity to discuss some of the background of the bill and the reasons that I have fought so hard to include the transfusion-associated AIDS community in the Ricky Ray bill this year.

While financial need and simple compassion for the tragedy suffered may be two reasons of many to pass this bill, these reasons alone cannot justify government payments to victims of the blood supply. The bill is heavily rooted in the belief that in the early to mid-1980s the government failed to protect users of the blood supply. The record that has been built in the Senate in floor speeches and in testimony provided at the Labor Committee hearing reflects this reason above all others for passing this bill.

Last October the Senate Committee on Labor and Human Resources held a hearing on ''HIV/AIDS: Recent Developments and Future Opportunities.'' A good portion of that hearing was devoted to a discussion on the blood crisis of the 1980s, resulting in the HIV infection of thousands of Americans who trusted that the blood or blood products with which they were treated was safe. Witnesses at the hearing included John Williams, the father of a child who contracted HIV from the clotting factor and died at the age of 18, and

Donna McCullough, a young woman who contracted HIV when she received a blood transfusion after a miscarriage.

Several witnesses at the hearing, including my colleagues Senator MIKE DEWINE and Congressman PORTER GOSS, testified that the federal government played a role in bringing on this tragedy and therefore owes this expression of compassion to the community affected.

Witnesses testified that the federal government is the watchdog charged with protecting the blood supply and that the government failed to respond aggressively to the early signs of blood borne diseases. The government did not do all it could have done to screen donors and test blood. The government failed to recall potentially contaminated blood and blood products; and then, knowing that transfusion of HIV-infected blood and blood products led to HIV infection, knowing that some of the blood was contaminated, and knowing that people were using it, the government still failed to notify people who were at risk. The details of the government's role were outlined in an Institute of Medicine (IOM) report published in 1995.

THE INSTITUTE OF MEDICINE REPORT

The IOM was commissioned to assess what happened in the 1980s with the hope of avoiding another crisis like the one that has devastated these families. The resulting report, ''HIV and the Blood Supply: An Analysis of Crisis Decisionmaking'' made criticisms of the government's handling of the blood crisis and has been cited many times in support of the Ricky Ray bill. Witnesses at the hearing spoke about the report and its findings, and it has been quoted repeatedly by advocates for the Ricky Ray bill.

The report is usually quoted in a way that highlights the shortcomings of government decision-making as they affected the hemophiliac community. But there is more to the report, and I would like to outline some of the points that are made most often with regard to the IOM report—both because I think the findings of the report provide insight as to why the Ricky Ray bill has enjoyed the support it has, and also to demonstrate that the IOM findings applied equally to the transfusion community.

The IOM Committee found a ''failure of leadership'' with regard to the government's role in ensuring the safety of the blood supply. We know that ''failure of leadership'' led to the HIV infection of more than one-half of the Nation's hemophilia population. In fact, the IOM Committee identified problems that:

> indicated a failure of leadership and inadequate institutional decision making processes in 1983 and 1984. No person or agency was able to coordinate all of the organizations sharing the public health responsibility for achieving a safe blood supply.

The suggestion that only the hemophiliac community was affected by a ''failure of leadership'' is an inaccurate representation of the report's findings. More importantly, that representation tragically excludes transfusion-associated AIDS cases, a community that is equally deserving of acknowledgment. Any failings of the government with regard to ensuring a safe blood supply clearly affected transfusion recipients as well as hemophiliacs.

The IOM Committee also concluded that:

> when confronted with a range of options for using donor screening and deferral to reduce the probability of spreading HIV through the blood supply, blood bank officials and federal authorities consistently chose the least aggressive option that was justifiable.

The government's decision to use least aggressive options with regard to donor screening and deferral decisions not only bypassed an opportunity to slow the spread of HIV within the hemophilia community, it resulted in thousands of cases of transfusion-associated AIDS. If infected blood had not been donated, no one would have been infected.

The IOM report outlined several specific areas where it found that the government failed to provide leadership, including:

March, 1983 letters relating to donor screening were unclear and not specific in their directives.

A July, 1983 decision not to recall plasma products automatically whenever linked to individual donors identified as having or suspected of having AIDS.

Delay in FDA's formal decision to recommend tracing recipients of transfusions from a donor who was later found to have HIV.

Each of these failures has been described on this floor with regard to how it affected the hemophiliac community, leaving the strong impression that only the hemophiliac community was affected. Again, with full understanding of the facts, it is obvious that each of these decision points affects not only a hemophiliac in receipt of an infected blood product, but any recipient of an infected blood transfusion, whether hemophiliac, surgical patient, or a mother who had just lost her first child to a miscarriage.

The IOM used the phrase ''missed opportunities'' to characterize the government's activities during the early and mid-1980s. Advocates for the Ricky Ray bill have made much of how the ''missed opportunities'' affected the hemophiliac community. The IOM said:

> The Committee believes that it was reasonable to require blood banks to implement these two screening procedures [screening donors and testing blood for surrogate markers] in January 1983. The FDA's failure to require this is evidence that the agency did not adequately use its regulatory authority and therefore missed opportunities to protect the public health.

Seen in context, the ''missed opportunities'' argument, like the ''failure of leadership'' argument, applies equally to the transfusion-associated AIDS cases.

LEGAL BARRIERS

Mr. Williams and others at the hearing last October testified that the hemophiliac community has found it nearly impossible to make recovery through the courts because of blood shield laws in most states that raise the burden of proof for product liability claims for blood and blood products. In addition, all states have statutes of limitations that prohibit litigation if the suit was not filed within a certain period of time. These arguments also have been presented on the Senate floor in support of the Ricky Ray bill and the hemophiliac community.

Again, these legal barriers also apply to the transfusion cases. Transfusion-associated AIDS victims are subject to the same blood shield laws and statutes of limitations that Mr. Williams mentioned at the Labor Committee hearing last fall. I heard from one father in Virginia who described the humility of being laughed at as the winning defense attorneys left the courtroom. He and his wife had filed suit after their three-year old son died of AIDS. The boy had been infected by a transfusion he received as an infant. Is he any less deserving?

Furthermore, we must note that the hemophiliac community has settled a class action with the factor manufacturers for $100,000 per infected individual. The transfusion community has won no such class action award. Some people may think that most transfusion victims recovered millions of dollars in court, and therefore need not be helped in this legislation. That is simply not the case. While in a very few cases individuals in this group were able to track the source of their infection and bring suit successfully against the blood bank, the vast majority were not.

According to the book ''Transfusion-Associated AIDS,'' by Robert K. Jenner, an attorney who has represented both hemophiliac and transfusion victims, only 2–6% of transfusion victims have received any compensation through legal action. He cites a study conducted by Transfusion magazine, and notes that only 150–300 transfusion lawsuits were filed. Of those, only 40 went to trial, and only 14 resulted in awards. Many of the 14 awards were later reduced by the court or settled after trial for a lesser amount.

Combining these numbers with CDC's estimate that there are 10,214 victims of transfusion-associated AIDS from the early and mid-1980s, we can calculate that somewhere between 1.5 to 3% of transfusion cases filed suit, and far less than 1% of those experienced recovery anywhere near the hundreds of thousands we have been led to believe they received in court.

COMPENSATION IN OTHER COUNTRIES

We have been reminded frequently that the U.S. is the last developed country to provide assistance/compensation to hemophiliacs who were infected with HIV by contaminated

blood. What we haven't heard is that many of those countries included other victims of the blood supply crisis in their compensation programs, including Australia, Canada, Denmark, France, Italy, and Switzerland.

ESTIMATING TRANSFUSION VICTIMS

I know some of my colleagues may be concerned that we don't know enough about the transfusion victim community to have confidence in the number of victims we have calculated. I believe we know quite a bit. The estimated number of transfusion victims, 10,214, is based on data obtained from the Centers for Disease Control, the federal agency charged with tracking incidence of AIDS. Further, the Congressional Budget Office has analyzed this number and concurs with the estimate.

While we cannot identify these victims by name, I don't see how we could and I don't see why we need to. The legislation that was reported unanimously by the Committee on Labor and Human Resources, S. 2564, establishes appropriate criteria that must be demonstrated in order to collect a compassionate payment.

We know that the transfusion victims acquired AIDS through the same mode of transmission as the hemophiliac community and they have suffered greatly. Like the hemophiliac community, some of them passed the disease on to their spouses and children and must live with that pain. Like the hemophilia community, some of them have experienced extreme financial difficulty because of the combined effect of their underlying disease and AIDS.

Regardless of our ability to generalize about this group of people, we know that they have suffered greatly because of the blood supply crisis, and we owe them the same acknowledgment and compassion that we have offered to the hemophilia community.

NO WASHINGTON LOBBY

There are roughly 10,000 people in addition to hemophiliacs who suffered extreme tragedy because of the blood supply crisis of the 1980s. The transfusion community is in fact somewhat bigger than the hemophiliac community. That fact may surprise my colleagues, because most of them have probably not been lobbied by this community.

Upon reflection it will become clear why this community has not been actively lobbying. They have no political voice and no Washington office providing them with daily updates on the status of their bill. They don't have a lobbying voice in Washington or a strong grassroots network because they are not united by a single disease like hemophilia.

There is one courageous individual working on behalf of this group who deserves mention. Steve Grissom is the President of a group called National Association for Victims of Transfusion-Acquired AIDS, or NAVTA. Steve is in his mid-40s and suffers from AIDS acquired from blood transfusions he received to treat his leukemia. Steve is a strong, proud man who certainly does not want our pity. I want to express my deep respect for the man Steve is and the work he has done to help the cause of thousands who suffer as he does.

I met with Steve last summer in my office here in Washington. He drove from North Carolina with his wife and young daughter. Steve moves in a wheelchair and breathes with the assistance of an oxygen tank. I'm not sure whether he chose to drive rather than fly all the way to Washington because it's easier on his breathing or because of financial constraints, and I'm not going to ask. Either way, making that long drive is symbolic of his commitment.

Steve works by himself out of his home with the assistance of e-mail, fax machines, and the internet. He has done everything he can think of and can afford to do to connect with other people who share his circumstances. It is more difficult than any of us can imagine to try organize the population that Steve is trying to reach. Except for HIV or AIDS, these people have nothing in common. And the one thing they do have in common—AIDS—carries enormous stigma. Privacy considerations make it nearly impossible for this community to network and form an effective grassroots lobby. How should these people go about finding each other?

They also have no money. They have no substantial membership to support campaigns to alert other victims to their existence. They have no pharmaceutical or corporate partners who want to collaborate with them to advance a research or policy agenda related to their disease, or want to make contributions to the work of NAVTA in the name of good public relations.

In addition to paying tribute to Steve and NAVTA for the enormous work he has done to support my efforts in the Senate, I also want to draw attention to the generous spirit of NAVTA. Transfusion-associated AIDS victims know they should have been included in the Ricky Ray bill. Even so, in their contacts with me they have always been clear that they did not want to be added to the bill if that would preclude passage. Theirs is a generosity of spirit seldom seen in Washington.

As it happened, NAVTA copied the National Hemophilia Foundation on its June letter expressing NAVTA's wish that transfusion cases not be the reason the bill dies. Within a week the letter was being circulated on Capitol Hill as an argument for excluding transfusion victims.

TIMING AND PROCEDURE

The House passed its version of the Ricky Ray bill in May, 1998. At the time of the Committee's hearing on this issue (October, 1997) I had asserted my view that the bill should extend its compassion to other victims, and immediately upon House passage I began work on that effort.

The immediate message from the advocates of the bill was that there was not time to make these changes. I did not believe that then and I don't believe it now. The changes I proposed were simple in nature and I never heard a good reason that they couldn't be made.

In June, I circulated draft language that would include the transfusion community. Early in July full-page advertisements ran in the Vermont Sunday papers asserting that I was holding up the bill in my Committee. This while I was still waiting for feedback on my language from the same group that ran the ads.

Nonetheless, I continued to press forward and eventually received feedback from all interested parties. There were no substantive comments to the changes I proposed. In fact, advocates for the bill agreed that transfusion victims had suffered a tragedy similar to their own. The objection I continued to hear was that there wasn't time in the legislative session to complete the process.

Once I had received feedback from all interested parties, I informally queried my Committee members about discharging the bill from the Committee—this was in July just before the August recess. I was told there would be objections; significantly, those objections were unrelated to the changes I had made to the bill. It became apparent that a mark-up would be required, so at the end of July my proposed language was published in the CONGRESSIONAL RECORD.

I scheduled a Committee markup of the Ricky Ray bill for September 9. Because there was not a quorum present we were unable to conduct Committee business that day. I attempted to complete the markup two more times in the following week, but both times scheduling changes on the floor precluded our meeting. Early in the week of September 14, Senator DEWINE and I agreed that the prudent next step would be to allow both my Chairman's mark and H.R. 1023 to be passed from the Committee.

We rescheduled the markup for September 16, and on that day both bills passed the Committee by voice vote. I promised then that I would do everything I could to pass a bill that included both communities. I also promised that if it became clear that we couldn't get the changes passed this year, I would agree to passage of the Ricky Ray bill without the transfusion community. That is where we now find ourselves, so, with assurances that we will add transfusion victims next year, I support passing H.R. 1023.

In closing, I would like to remind my colleagues who the transfusion victims are. They are pregnant Moms, accident victims, and people like Steve Grissom, mentioned earlier. Until now they were united only in their trust in a blood supply that gave them AIDS. I hope that, if nothing else, our efforts this year in the Senate will help other transfusion victims to find Steve and

NAVTA so that, next year, my colleagues will hear from the other victims of the blood supply crisis.

They are out there and they, too, deserve our acknowledgment and compassion.

Mr. LOTT. Mr. President, I congratulate Senator DEWINE and commend him for his dedicated effort in this area. He felt that a wrong had been committed and that people had suffered because of no mistake of their own. Something had to be done to right the wrong. This is the bill that has been known as the Ricky Ray Relief Fund.

Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 1023) was considered read the third time, and passed.

AMENDING SENATE RESOLUTION 209 TO PROVIDE BUDGET LEVELS IN THE SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 312 submitted earlier today by Senator DOMENICI.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 312) to amend Senate Resolution 209 in order to provide budget levels in the Senate for purposes of Fiscal Year 1999 and include the appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, for the information of the Senate, this resolution on behalf of Senator LAUTENBERG and myself is the so-called deeming budget resolution. We have cleared this with our colleagues on both sides of the aisle.

Last year this Congress reached an historic agreement with the President. We enacted the Balanced Budget Act of 1997. I think those pundits who like to suggest that this Congress has not done anything seem to conveniently forget that the balanced budget agreement was done in this Congress.

Nevertheless, that agreement and the implementing legislation—the Budget Enforcement Act of 1997—put in place for 5 years spending limits on appropriated accounts and extended various other fiscal enforcement tools. I have often thought of this legislation as a first step in creating a biennial budgeting and appropriations process. We have operated in the second session of this Congress under those spending caps and applied the discipline of that act to help us secure the first balanced budget in decades.

The levels set forth in this Senate resolution reflect the bipartisan balanced budget agreement—updated for the most recent fiscal and economic information provided to us by the Congressional Budget Office and for legislation enacted since the last budget resolution was agreed to.

This is similar to the action which the Senate took on April 2 of this year when we passed S. Res. 209 which provided a section 302 allocation to the Committee on Appropriations in advance of completing action on a budget resolution.

What we have done today is simply provide committee spending allocations and establish overall aggregate levels of spending and revenues so that we can continue the fiscal discipline inherent in our budget rules—this means we will be able to enforce our section 302 and 311 points of order and our pay-as-you-go rule.

I feel this discipline has been critical to our ability to uphold the bipartisan balanced budget agreement and led us to a period of budget surpluses. Thus we should not let the fact that we were unable to complete conference prevent us from going forward with the budget rules which have served us so well in the past.

I am hopeful that early in the next Congress we might consummate the 2 year budgeting and appropriations process in statute along with other changes to the Budget Act necessitated by the changed environment of projected budget surpluses.

Mr. President, I ask unanimous consent that the allocations of budget authority and outlays under section 302 of the Budget Act for Senate authorizing committees be printed in the RECORD. The Senate appropriations already received its allocation on April 2 of this year when the Senate adopted S. Res. 209.

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

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT BUDGET YEAR TOTAL 1999

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations act	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	9,027	6,319	17,273	9,183
Armed Services	48,287	48,160	0	0
Banking, Housing, and Urban Affairs	6,538	3,182	0	0
Commerce, Science, and Transportation	8,124	5,753	682	678
Energy and Natural Resources	2,201	2,238	40	39
Environment and Public Works	31,232	1,349	0	0
Finance	694,465	688,023	146,033	146,926
Foreign Relations	10,908	12,141	0	0
Governmental Affairs	58,299	57,062	0	0
Judiciary	4,953	4,590	231	232
Labor and Human Resources	7,989	7,514	1,328	1,328
Rules and Administration	93	56	0	0
Veterans' Affairs	1,194	1,418	22,629	22,536
Indian Affairs	492	477	0	0
Small Business	0	−220	0	0
Unassigned to Committee	−303,087	−294,967	0	0
Total	1,417,136	1,402,185	188,216	180,922

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT 5-YEAR TOTAL: 1999–2003

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations act	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	37,593	24,604	86,417	51,226
Armed Services	258,666	258,183	39,022	1,700
Banking, Housing, and Urban Affairs	39,022	1,700	0	0
Commerce, Science, and Transportation	64,657	52,828	3,680	3,660
Energy and Natural Resources	10,564	10,487	200	242
Environment and Public Works	162,510	6,871	0	0
Finance	3,660,491	3,651,115	827,934	829,129
Foreign Relations	48,981	54,569	0	0
Governmental Affairs	312,943	306,281	0	0

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT 5-YEAR TOTAL: 1999–2003—Continued

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations act	
	Budget authority	Outlays	Budget authority	Outlays
Judiciary	25,025	23,765	1,155	1,160
Labor and Human Resources	46,608	43,850	6,926	6,926
Rules and Administration	455	422	0	0
Veterans' Affairs	5,381	7,028	119,335	119,073
Indian Affairs	2,486	2,418	0	0
Small Business	0	−989	0	0

Mr. LAUTENBERG. Mr. President, I support this resolution, which is essentially a technical change that will facilitate enforcement of the Budget Act in the Senate.

This resolution would update the following figures for purposes of enforcing points of order in the Senate only. First, aggregates for revenues, budget authority, outlays, and Social Security revenues and outlays. Second, Section 302(a) allocations for Senate committees.

The resolution does not include functional totals or reconciliation instructions. It would not endorse the spending priorities included in the Senate-passed resolution, or any other spending priorities, for that matter. Also, it would not apply to the House of Representatives. It therefore it not a budget resolution in any sense.

The allocations and aggregates in this resolution are based on CBO's August baseline estimates, updated for enacted legislation and some technical corrections. The resolution is based on legislation enacted as of today. However, it includes a provision allowing the Chairman to revise the aggregates and allocations once more based only on legislation enacted through the end of the session. This means that each committee, and the Senate paygo ledger, will start the year with a clean slate.

Mr. President, since Congress has not adopted a budget resolution for FY99, the Senate is now operating under the budget resolution approved last year for FY98 and beyond. This has the effect of limiting the availability of points of order to enforce the basic rules of the Balanced Budget Agreement.

For example, when the Senate considers legislation proposing revenue reductions or new mandatory spending, the Senate's ''pay-as-you-go'' rules require that all costs be offset in the first, the first five, and the second five years of the budget resolution in effect at the time. Since we are now operating under last year's resolution, there is now no point of order available based on the failure of such legislation, for example, to offset all costs in the first year after enactment. This resolution would address this problem.

So, Mr. President, I support this resolution. It is not a budget resolution. It does not propose a set of spending priorities. It is simply a technical change that will help us enforce the basic structure of the Budget Enforcement Act.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 312) was agreed to, as follows:

S. RES. 312

Resolved, That Senate Resolution 209, agreed to April 2, 1999 (105th Congress), is amended by striking all after the resolving clause and inserting the following:

SECTION 1. SENATE BUDGET LEVELS.

(a) IN GENERAL.—For the purpose of enforcing the Congressional Budget Act of 1974 and section 202 of House Concurrent Resolution 67 (104th Congress), the following levels, amounts, and allocations shall apply in the Senate in the same manner as a concurrent resolution on the budget for fiscal year 1999 and including the appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—The recommended levels of Federal revenues are as follows:

Fiscal year 1999: $1,358,919,000,000.
Fiscal year 2000: $1,388,039,000,000.
Fiscal year 2001: $1,424,774,000,000.
Fiscal year 2002: $1,480,891,000,000.
Fiscal year 2003: $1,534,362,000,000.

(2) NEW BUDGET AUTHORITY.—The appropriate levels of new budget authority are as follows:

Fiscal year 1999: $1,417,136,000,000.
Fiscal year 2000: $1,453,654,000,000.
Fiscal year 2001: $1,489,637,000,000.
Fiscal year 2002: $1,517,259,000,000.
Fiscal year 2003: $1,577,949,000,000.

(3) BUDGET OUTLAYS.—The appropriate levels of total budget outlays are as follows:

Fiscal year 1999: $1,402,185,000,000.
Fiscal year 2000: $1,438,029,000,000.
Fiscal year 2001: $1,473,660,000,000.
Fiscal year 2002: $1,484,272,000,000.
Fiscal year 2003: $1,548,914,000,000.

(4) SOCIAL SECURITY REVENUES.—The amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: $441,749,000,000.
Fiscal year 2000: $460,115,000,000.
Fiscal year 2001: $477,722,000,000.
Fiscal year 2002: $497,290,000,000.
Fiscal year 2003: $518,752,000,000.

(5) SOCIAL SECURITY OUTLAYS.—The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: $321,261,000,000.
Fiscal year 2000: $330,916,000,000.
Fiscal year 2001: $344,041,000,000.
Fiscal year 2002: $355,614,000,000.
Fiscal year 2003: $368,890,000,000.

(b) REVISIONS.—

(1) IN GENERAL.—The Chairman of the Senate Committee on the Budget may file 1 set of revisions to the levels, amounts, and allocations provided by this resolution and those revisions shall only reflect legislation enacted in the 105th Congress and not assumed in this resolution.

(2) CONGRESSIONAL PAY-GO SCORECARD.—Upon making revisions pursuant to paragraph (1) and for the purpose of enforcing section 202 of House Concurrent Resolution 67 (104th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and receipts for any fiscal year to zero.

(c) EFFECTIVE DATE AND EXPIRATION.—This resolution shall—

(1) take effect on the date that the Congress adjourns sine die or the date the 105th Congress expires, whichever date is earlier; and

(2) expire on the effective date of a concurrent resolution on the budget for fiscal year 1999 agreed to pursuant to section 301 of the Congressional Budget Act of 1974.

SEC. 2. COMMITTEE ALLOCATIONS.

Upon the adoption of this resolution, the Chairman of the Committee on the Budget shall file allocations consistent with this resolution pursuant to section 302(a) of the Congressional Budget Act of 1974.

AWARDING THE MEDAL OF HONOR POSTHUMOUSLY TO THEODORE ROOSEVELT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2263, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2263) to authorize and request the President to award the congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, as the Senate considers H.R. 2263, a bill to authorize the President to award the Medal of Honor to Theodore Roosevelt for his actions on San Juan Heights in cuba during the Spanish-American War, I want to clarify what we are doing. This bill does not award the Medal of Honor to Theodore Roosevelt. It does authorize the President to award the Medal of Honor to then Colonel Roosevelt.

Colonel Roosevelt's actions on San Juan Heights may well merit the award of the Medal of Honor. However, in order to make such a determination, one must carefully review the historical record, including any eyewitness

accounts that may be available, and evaluate the record against the criteria for award of the Medal of Honor that was applied to other members of the Armed forces who were recommended for the Medal of Honor during the Spanish-American War. In my opinion, this is a task that can only be performed by the military services.

In fact, in the National Defense Authorization Act for Fiscal Year 1996, we established a procedure in which the military services would evaluate recommendations for awards for past actions and notify the Committee on Armed Services of those found to be meritorious. Each year, in the National Defense Authorization Act, we waive the time limits for those awards recommended by the Secretaries of the Military Departments so that the award may be made.

Mr. President, Senator LEVIN and myself, as well as Congressmen SPENCE, SKELTON, and MCHALE have agreed to and signed a letter to the President regarding this issue. This letter makes it clear that we believe the President should consult with the Secretary of the Army, who is reviewing the accounts of Colonel Roosevelt's actions before deciding to award the Medal of Honor to Theodore Roosevelt. I ask unanimous consent that this letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, this bill should not be seen as a precedent for Congressional decisions on military awards. Our legislation in 1996 established a procedure designed to ensure that heroic and meritorious actions do not go unrecognized solely due to the passage of time. However, the procedure also preserves the integrity of the military award system which is important to our military services and the American people.

Mr. President, in closing, I want to commend Congressman MCHALE for his determined efforts in bringing this matter to our attention. It is my fervent hope that Colonel Roosevelt's action will be appropriately recognized while preserving the time honored processes and traditions within our military services for awarding our Nation's most hallowed award for valor, the Medal of Honor.

EXHIBIT 1

COMMITTEE ON ARMED SERVICES,
Washington, DC, October 20, 1998.

THE PRESIDENT,
The White House, Washington, DC 20500

DEAR MR. PRESIDENT: We want to share our views with you on H.R. 2263, a bill that authorizes and requests you to award the Medal of Honor posthumously to Theodore Roosevelt for his actions in the attack on San Juan Heights, Cuba during the Spanish American War.

We supported this legislation with the intent and understanding that: (a) prior to reaching a decision on awarding the Medal of Honor posthumously to Theodore Roosevelt pursuant to this legislation, you will seek the advice of the Secretary of the Army; (b) Theodore Roosevelt will be considered for eligibility for the Medal of Honor based on the same standard of merit that was applied to other members of the armed forces who received this medal during the Spanish American War; and (c) the Secretary of the Army will prepare a full and formal record of Theodore Roosevelt's valor, inviting public submissions, with emphasis on the eyewitness and contemporaneous accounts of Roosevelt's battlefield courage.

If an injustice was done to Theodore Roosevelt in withholding the Medal of Honor, we believe it should be corrected.

Sincerely,

CARL LEVIN,
Ranking Minority Member, Committee on Armed Services, United States Senate.

STROM THURMOND,
Chairman, Committee on Armed Services, United States Senate.

IKE SKELTON,
Ranking Minority Member, Committee on National Security, United States House of Representatives.

FLOYD SPENCE,
Chairman, Committee on National Security, United States House of Representatives.

PAUL MCHALE,
Member, Committee on National Security, United States House of Representatives.

Mr. LEVIN. Mr. President, I support this legislation that authorizes and requests the President to award the Medal of Honor posthumously to Theodore Roosevelt for his actions in the attack on San Juan Heights, Cuba during the Spanish American War. I support this legislation because the letter to the President that Senator THURMOND has put in the RECORD makes clear the congressional intent in passing this legislation.

I want to briefly summarize the key points of this letter. It is our intent and understanding that: prior to reaching a decision on awarding the Medal of Honor posthumously to Theodore Roosevelt pursuant to this legislation, the President will seek the advice of the Secretary of the Army; Theodore Roosevelt will be considered for eligibility for the Medal of Honor based on the same standard of merit that was applied to other members of the armed forces who received this medal during the Spanish American War; and the Secretary of the Army will prepare a full and formal record of Theodore Roosevelt's valor, inviting public submissions, with emphasis on the eyewitness and contemporaneous accounts of Roosevelt's battlefield courage.

Mr. President, military awards and decorations—particularly decorations for valor—are a hallowed part of the military services' core values and traditions, and are critical to the morale and esprit of the men and women who serve in our armed forces. In my view, the decision to award a medal of valor is the prerogative of the military service, not the Congress. That is why Congress recently enacted section 1130 of Title 10 United States Code. This section allows Members of Congress to request a Service Secretary to review proposals for military decorations that were not previously submitted in a timely fashion, but leaves the final determination as to the merits of approving the decoration to the Service Secretary.

There are many people who believe that Theodore Roosevelt's actions in the attack on San Juan Heights are deserving of this high honor, and that this honor was withheld from him at the time despite the recommendation of his military chain of command. I believe that a complete record should be assembled and the entire issue should be carefully reviewed by the Army. Secretary of the Army Louis Caldera recently pledged to Congress that the Army is conducting this review, and he has agreed to review personally all of the material in this case.

Mr. President, if an injustice was done to Theodore Roosevelt in withholding the Medal of Honor, it should be corrected. But the legislation we are passing today is advisory and not directive. Before the President reaches a final decision on whether to award the Medal of Honor to Theodore Roosevelt, our letter to the President makes clear the congressional intent that he should consult with the Secretary of the Army.

Mr. CONRAD. Mr. President, I am pleased to rise in support of H.R. 2263, legislation that encourages the posthumous award of the Medal of Honor to Theodore Roosevelt.

The courage demonstrated by Col. Theodore Roosevelt as he led the First US Volunteer Cavalry in an attack on San Juan Heights, Cuba, has rightly become a part of American folklore. That day, on July 1, 1898, in one of the most famous military actions in our nation's history, Roosevelt showed why he is rightly regarded as an American hero.

Roosevelt had every reason to expect to be awarded the Medal of Honor. Award of this most prestigious medal to ''TR'' was recommended by his commanding general.

Unfortunately, political considerations at the time stood in the way. As Roosevelt's great grandson, Tweed Roosevelt, testified before Congress last month, however, TR did not take the occasion of his assumption of the presidency to retaliate against those who had denied him an award he clearly deserved. The same character he showed in battle during the Spanish-American War continued to be evident once Roosevelt reached the pinnacle of power in the United States.

Fortunately, today the Senate is taking legislative action that will allow this injustice to be corrected. One century after TR and his Roughriders

charged up San Juan Heights, the Senate stands ready to pass legislation that would authorize and request that the Medal of Honor be awarded posthumously to Theodore Roosevelt. I was pleased to work with the distinguished leadership of the Senate Armed Services Committee on this matter, and thank them for their good work.

As those of my colleagues who have studied Roosevelt's life are aware, my state has a special connection with Theodore Roosevelt. TR liked to say that the years he spent in the Badlands of North Dakota were the best of his life. Today, Theodore Roosevelt National Park stands as an enduring reminder of TR's love for North Dakota and the profound impact that my state had on this remarkable American.

As a North Dakotan and an American, I am pleased that the life and ideas of Theodore Roosevelt are receiving renewed attention. TR's ruggedness, patriotism, optimism, and spirit reflect what is best about our country. He also articulated a vision of America that remains compelling today, and merits a new look. Teddy Roosevelt called for maintaining a strong national defense, protecting our environmental treasures, encouraging entrepreneurship, and, by broadening access to education and health care, ensuring that every American has a viable shot at realizing their dreams. This is a vision we all would do well to pursue.

Again, Mr. President, I want to thank my colleagues for their support of the legislation before us today, and congratulate the Armed Services Committee for its leadership in seeing that an historical wrong can be righted before the end of this session of Congress. Theodore Roosevelt was a great American who displayed remarkable courage in battle. It is good to know that the bill we will pass today will help get him the recognition he deserves.

Mr. President, I yield the floor.

Mr. SMITH of New Hampshire. Mr. President, I rise to indicate my strong support for this bill. It is my sincere conviction that we are today making right a historic wrong. One hundred years ago, Theodore Roosevelt was denied the Congressional Medal of Honor simply because he attempted to force the War Department to return sick veterans of the Spanish-American War to their homes in the United States. In so doing, he embarrassed a political rival, who it just so happened was also the Secretary of War. As a result, despite the unanimous recommendation of his uniformed superiors, his political superior denied him the nation's highest military honor.

On July 1, 1898, Colonel Theodore Roosevelt, commander of the 1st U.S. Volunteer Cavalry Regiment—the famed ''Rough Riders''—was just 39 years of age. He had resigned his position as Assistant Secretary of the Navy so that he could help organize the regiment. American forces, battling both the Spanish and the Cuban jungle, prepared to storm San Juan Hill and the heights surrounding the strategic port city of Santiago, Cuba. within the protected walls surrounding the port of Santiago sat the Spanish fleet, which had to be neutralized if the United States was to win the war.

The American attack against Kettle Hill and San Juan Hill was pinned down immediately by the merciless fire of the Spanish forces entrenched on the heights above. According to one participant, ''the situation was desperate. Our troops could not retreat as the trail for two miles behind them was wedged with men. They could not remain where they were for they were being shot to pieces. . .'' U.S. forces still hunkered down at the foot of the hill were unable to return fire.

After long delay, Roosevelt received orders to advance. With Roosevelt at their lead, the Rough Riders advanced to the front of the American line. Determined to rally the American forces to victory, Roosevelt shouted: ''If you don't want to go forward, let my men pass.'' Roosevelt dared and goaded men in the rear forward until they crowded the ones in front of them. The whole line, tired of waiting and eager to close with the enemy, was straining to go forward.

Leading the charge up the hill, Roosevelt waved his hat and went up the hill with a rush. With Roosevelt in the lead, thee American forces reached the summit of Kettle Hill and swept aside the last of the Spanish defenders. Without hesitating, Roosevelt directed his men to fire against the Spanish defenders on nearby San Juan Hill, where another American force was advancing in the face of heavy fire. Rallying his forces, Roosevelt leapt forward advancing into the valley between Kettle Hill and San Juan Hill. In his excitement to charge the Spanish position, Roosevelt soon realized instead of the entire regiment following him, only five other men had joined him in the charge.

Roosevelt then proceeded to run back to Kettle Hill, where he angrily yelled at the regiment to follow him. The Rough Riders responded by shouting: ''We didn't see you go! Lead on and we will follow!'' Lead he did. Once again, Roosevelt, this time with the Rough Riders behind, rushed up San Juan Hill for a second time. Once again, Roosevelt led his men into the Spanish line on the top of the height. Roosevelt then succeeded in organizing and leading the defense of the heights throughout the night. Out of four hundred men in the regiment, 86 had been killed or wounded, six were missing and another 40 were struck with heat exhaustion.

Military experts, historians, and everyone who had witnessed both the charge up Kettle Hill and San Juan Hill agreed that they had occurred and succeeded because of the man who had led them. For his actions, Colonel Leonard Wood, 1st U.S. volunteer Cavalry, recommended Roosevelt for the Congressional Medal of Honor. The recommendation received endorsement throughout the chain of command.

After the cessation of hostilities, the American forces remaining on Cuba, including the rough riders, were ravaged by malaria and fever. The commanders on Cuba, including Roosevelt and Leonard Wood, pleaded with the War Department, to bring the men home. But Secretary of War Alger, who believed the troops were infected with yellow fever, wished to delay their return until the disease had run its course. Fearing that the continued stay of the troops on the island would result in the death of thousands, Roosevelt, with the support of the other commanders on the island, drafted a letter demanding that the troops be brought back home lest thousands die in Cuba.

The letter was published in the press, and was a great embarrassment to President McKinley and Secretary of War Alger. Although subsequently Roosevelt received credit for bringing the troops home, Alger rejected the recommendation of Roosevelt's superiors that he be awarded the Medal of Honor for his actions. Roosevelt's wife would later write that Alger's rejection of Roosevelt's recommendation for the Medal of Honor ''was one of the bitterest disappointments of his life.''

I will admit that I approached the prospect of legislating the nation's highest military award for valor with some concern. However, my review of the facts of this case have convinced me that Teddy Roosevelt earned the Medal of Honor on the battlefield, only to see it denied for political reasons. I am pleased, one hundred years later, to be a part of correcting this injustice today.

Mr. LOTT. Mr. President, I commend Congressman MCHALE and a number of House Members that took the time and stayed committed to this until we did get it accomplished. From what I have learned about it, it is the right thing to do.

Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2263) was considered read the third time, and passed.

VETERANS BENEFITS IMPROVEMENT ACT OF 1998

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 4110) to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That House agree to the amendment of the Senate to the bill (H.R. 4110) entitled ''An Act to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes'', with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Programs Enhancement Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States code.

TITLE I—PROVISIONS RELATING TO VETERANS OF PERSIAN GULF WAR AND FUTURE CONFLICTS

Sec. 101. Agreement with National Academy of Sciences regarding evaluation of health consequences of service in Southwest Asia during the Persian Gulf War.
Sec. 102. Health care for veterans of Persian Gulf War and future conflicts.
Sec. 103. National center on war-related illnesses and post-deployment health issues.
Sec. 104. Coordination of activities.
Sec. 105. Improving effectiveness of care of Persian Gulf War veterans.
Sec. 106. Contract for independent recommendations on research and for development of curriculum on care of Persian Gulf War veterans.
Sec. 107. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE II—EDUCATION AND EMPLOYMENT

Subtitle A—Education Matters

Sec. 201. Calculation of reporting fee based on total veteran enrollment during a calendar year.
Sec. 202. Election of advance payment of work-study allowance.
Sec. 203. Alternative to twelve semester hour equivalency requirement.
Sec. 204. Medical evidence for flight training requirements.
Sec. 205. Waiver of wage increase and minimum payment rate requirements for government job training program approval.
Sec. 206. Expansion of education outreach services.
Sec. 207. Information on minimum requirements for education benefits for members of the Armed Forces discharged early from duty for the convenience of the Government.

Subtitle B—Uniformed Services Employment and Reemployment Rights Act Amendments

Sec. 211. Enforcement of rights with respect to a State as an employer.
Sec. 212. Protection of extraterritorial employment and reemployment rights of members of the uniformed services.
Sec. 213. Complaints relating to reemployment of members of the uniformed services in Federal service.

TITLE III—COMPENSATION, PENSION, AND INSURANCE

Sec. 301. Medal of Honor special pension.
Sec. 302. Accelerated death benefit for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance participants.
Sec. 303. Assessment of effectiveness of insurance and survivor benefits programs for survivors of veterans with service-connected disabilities.
Sec. 304. National Service Life Insurance program.

TITLE IV—MEMORIAL AFFAIRS

Sec. 401. Commemoration of individuals whose remains are unavailable for interment.
Sec. 402. Merchant mariner burial and cemetery benefits.
Sec. 403. Redesignation of National Cemetery System and establishment of Under Secretary for Memorial Affairs.
Sec. 404. State cemetery grants program.

TITLE V—COURT OF VETERANS APPEALS

Subtitle A—Administrative Provisions Relating to the Court

Sec. 501. Continuation in office of judges pending confirmation for second term.
Sec. 502. Exemption of retirement fund from sequestration orders.
Sec. 503. Adjustments for survivor annuities.
Sec. 504. Reports on retirement program modifications.

Subtitle B—Renaming of Court

Sec. 511. Renaming of the Court of Veterans Appeals.
Sec. 512. Conforming amendments.
Sec. 513. Effective date.

TITLE VI—HOUSING

Sec. 601. Loan guarantee for multifamily transitional housing for homeless veterans.
Sec. 602. Veterans housing benefit program fund account consolidation.
Sec. 603. Extension of eligibility of members of Selected Reserve for veterans housing loans.
Sec. 604. Applicability of procurement law to certain contracts of department of veterans affairs.

TITLE VII—CONSTRUCTION AND FACILITIES MATTERS

Sec. 701. Authorization of major medical facility projects.
Sec. 702. Authorization of major medical facility leases.
Sec. 703. Authorization of appropriations.
Sec. 704. Increase in threshold for major medical facility leases for purposes of congressional authorization.
Sec. 705. Threshold for treatment of parking facility project as a major medical facility project.
Sec. 706. Parking fees.
Sec. 707. Master plan regarding use of Department of Veterans Affairs lands at West Los Angeles Medical Center, California.
Sec. 708. Designation of Department of Veterans Affairs Medical Center, Aspinwall, Pennsylvania.
Sec. 709. Designation of Department of Veterans Affairs Medical Center, Gainesville, Florida.
Sec. 710. Designation of Department of Veterans Affairs outpatient clinic, Columbus, Ohio.

TITLE VIII—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

Sec. 801. Short title.
Sec. 802. Scholarship program for Department of Veterans Affairs employees receiving education or training in the health professions.
Sec. 803. Education debt reduction program for Veterans Health Administration health professionals.
Sec. 804. Repeal of prohibition on payment of tuition loans.
Sec. 805. Conforming amendments.
Sec. 806. Coordination with appropriations provision.

TITLE IX—MISCELLANEOUS MEDICAL CARE AND MEDICAL ADMINISTRATION PROVISIONS

Sec. 901. Examinations and care associated with certain radiation treatment.
Sec. 902. Extension of authority to counsel and treat veterans for sexual trauma.
Sec. 903. Management of specialized treatment and rehabilitative programs.
Sec. 904. Authority to use for operating expenses of Department of Veterans Affairs medical facilities amounts available by reason of the limitation on pension for veterans receiving nursing home care.
Sec. 905. Report on nurse locality pay.
Sec. 906. Annual report on program and expenditures of Department of Veterans Affairs for domestic response to weapons of mass destruction.
Sec. 907. Interim appointment of Under Secretary for Health.

TITLE X—OTHER MATTERS

Sec. 1001. Requirement for naming of Department property.
Sec. 1002. Members of the Board of Veterans' Appeals.
Sec. 1003. Flexibility in docketing and hearing of appeals by Board of Veterans' Appeals.
Sec. 1004. Disabled veterans outreach program specialists.
Sec. 1005. Technical amendments.

TITLE XI—COMPENSATION COST-OF-LIVING ADJUSTMENT

Sec. 1101. Increase in rates of disability compensation and dependency and indemnity compensation.
Sec. 1102. Publication of adjusted rates.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES 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 title 38, United States Code.

TITLE I—PROVISIONS RELATING TO VETERANS OF PERSIAN GULF WAR AND FUTURE CONFLICTS

SEC. 101. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES REGARDING EVALUATION OF HEALTH CONSEQUENCES OF SERVICE IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise which is not a part of the Federal Government, to review and evaluate the available scientific evidence regarding associations between illness and service in the Persian Gulf War.

(b) AGREEMENT.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section. The Secretary shall seek to enter into the agreement not later than two months after the date of the enactment of this Act.

(2)(A) If the Secretary is unable within the time period set forth in paragraph (1) to enter into an agreement with the Academy for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the Academy.

(B) If the Secretary enters into an agreement with another organization under this paragraph, any reference in this section to the National Academy of Sciences shall be treated as a reference to such other organization.

(c) REVIEW OF SCIENTIFIC EVIDENCE.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct a comprehensive review and evaluation of the available scientific and medical information regarding the health status of Gulf War veterans and the health consequences of exposures to risk factors during service in the Persian Gulf War. In conducting such review and evaluation, the Academy shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines (including the agents specified in subsection (d)(1)) to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service;

(B) identify the illnesses associated with the agents, hazards, or medicines or vaccines identified under subparagraph (A); and

(C) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) for which there is scientific evidence of a higher prevalence among populations of Gulf War veterans when compared with other appropriate populations of individuals.

(2) In identifying illnesses under subparagraphs (B) and (C) of paragraph (1), the Academy shall review and summarize the relevant scientific evidence regarding illnesses, including symptoms, adverse reproductive health outcomes, and mortality, among the members described in paragraph (1)(A) and among other appropriate populations of individuals.

(3) In conducting the review and evaluation under paragraph (1), the Academy shall, for each illness identified under subparagraph (B) or (C) of that paragraph, assess the latency period, if any, between service or exposure to any potential risk factor (including an agent, hazard, or medicine or vaccine identified under subparagraph (A) of that paragraph) and the manifestation of such illness.

(d) SPECIFIED AGENTS.—(1) In identifying under subsection (c)(1)(A) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed, the National Academy of Sciences shall consider the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated hydrocarbons and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

(G) The following sources of radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherichia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, 'attenuated', and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (h).

(3) Not later than six months after entry into the agreement under subsection (b), the Academy shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) SCIENTIFIC DETERMINATIONS CONCERNING ILLNESSES.—(1) For each illness identified under subparagraph (B) or (C) of subsection (c)(1), the National Academy of Sciences shall determine (to the extent available scientific evidence permits) whether there is scientific evidence of an association of that illness with Gulf War service or exposure during Gulf War service to one or more agents, hazards, or medicines or vaccines. In making those determinations, the Academy shall consider—

(A) the strength of scientific evidence, the replicability of results, the statistical significance of results, and the appropriateness of the scientific methods used to detect the association;

(B) in any case where there is evidence of an apparent association, whether there is reasonable confidence that that apparent association is not due to chance, bias, or confounding;

(C) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine;

(D) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness;

(E) in any case where information about exposure levels is available, whether the evidence indicates that the levels of exposure of the studied populations were of the same magnitude as the estimated likely exposures of Gulf War veterans; and

(F) whether there is an increased risk of illness among Gulf War veterans in comparison with appropriate peer groups.

(2) The Academy shall include in its reports under subsection (h) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of service in the Persian Gulf War or exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(g) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the information referred to in subsection (c), the evidence referred to in subsection (e), and the data referred to in subsection (f) that became available since the last review of such information, evidence, and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(h) REPORTS BY ACADEMY.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives and the Secretary of Veterans Affairs periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than two years after entry into the agreement under subsection (b). That report shall include—

(A) the determinations and discussion referred to in subsection (e); and

(B) any recommendations of the Academy under subsection (f).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the two-year period ending on the date of such report.

(i) REPORTS BY SECRETARY.—(1) The Secretary shall review each report from the Academy under subsection (h). As part of such review, the Secretary shall seek comments on, and evaluation of, the Academy's report from the heads of other affected departments and agencies of the United States.

(2) Based upon a review under paragraph (1), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the available scientific and medical information regarding the health consequences of Persian Gulf War service and of exposures to risk factors during service in the Persian Gulf War. The Secretary shall include in the report the Secretary's recommendations as to whether there is sufficient evidence to warrant a presumption of service-connection for the occurrence of a specified condition in Gulf War veterans. In determining whether to make such a recommendation, the Secretary shall consider the matters specified in subparagraphs (A) through (F) of subsection (e)(1).

(3) The report under this subsection shall be submitted not later than 120 days after the date on which the Secretary receives the report from the Academy.

(j) SUNSET.—This section shall cease to be effective 11 years after the last day of the fiscal year in which the National Academy of Sciences enters into an agreement with the Secretary under subsection (b).

(k) DEFINITION.—In this section, the term ''toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service'' means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises

as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

SEC. 102. HEALTH CARE FOR VETERANS OF PERSIAN GULF WAR AND FUTURE CONFLICTS.

(a) AUTHORITY.—Section 1710(e) is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

''(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities (as defined in section 1712A(a)(2)(B) of this title) after the date of the enactment of this subparagraph, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.'';

(2) in paragraph (2)(B), by inserting ''or (1)(D)'' after ''paragraph (1)(C)'';

(3) in paragraph (3)—

(A) by striking out ''and'' at the end of subparagraph (A);

(B) by striking out ''December 31, 1998.'' in subparagraph (B) and inserting in lieu thereof ''December 31, 2001; and''; and

(C) by adding at the end the following new subparagraph:

''(C) in the case of care for a veteran described in paragraph (1)(D), after a period of two years beginning on the date of the veteran's discharge or release from active military, naval, or air service.''; and

(4) by adding at the end the following new paragraph:

''(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that authority. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.''.

(b) IMPLEMENTATION REPORT.—Not later than October 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plan for establishing and operating the system for collection and analysis of information required by paragraph (5) of section 1710(e) of title 38, United States Code, as added by subsection (a)(4).

SEC. 103. NATIONAL CENTER ON WAR-RELATED ILLNESSES AND POST-DEPLOYMENT HEALTH ISSUES.

(a) ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate independent organization, under which such entity shall assist in developing a plan for the establishment of a national center or national centers for the study of war-related illnesses and post-deployment health issues. The purposes of such a center may include—

(1) carrying out and promoting research regarding the etiologies, diagnosis, treatment, and prevention of war-related illnesses and post-deployment health issues; and

(2) promoting the development of appropriate health policies, including monitoring, medical recordkeeping, risk communication, and use of new technologies.

(b) RECOMMENDATIONS AND REPORT.—With respect to such a center, an agreement under this section shall provide for the Academy (or other entity) to—

(1) make recommendations regarding (A) design of an organizational structure or structures, operational scope, staffing and resource needs, establishment of appropriate databases, the advantages of single or multiple sites, mechanisms for implementing recommendations on policy, and relationship to academic or scientific entities, (B) the role or roles that relevant Federal departments and agencies should have in the establishment and operation of any such center or centers, and (C) such other matters as it considers appropriate; and

(2) report to the Secretary, the Secretaries of Defense and Health and Human Services, and the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than one year after the date of the enactment of this Act, on its recommendations.

(c) REPORT ON ESTABLISHMENT OF NATIONAL CENTER.—Not later than 60 days after receiving the report under subsection (b), the Secretaries specified in subsection (b)(2) shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and Natoinal Security of the House of Representatives a joint report on the findings and recommendations contained in that report. Such report may set forth an operational plan for carrying out any recommendation in that report to establish a national center or centers for the study of war-related illnesses. No action to carry out such plan may be taken after the submission of such report until the end of a 90-day period following the date of the submission.

SEC. 104. COORDINATION OF ACTIVITIES.

Section 707 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended—

*(1) in the heading, by striking out ''**GOVERNMENT ACTIVITIES ON HEALTH-RELATED RESEARCH**'' and inserting the following: ''**HEALTH-RELATED GOVERNMENT ACTIVITIES**'';*

(2) in subsection (a), by striking out ''research''; and

(3) by striking out subsection (b) and inserting in lieu thereof the following:

''(b) PUBLIC ADVISORY COMMITTEE.—Not later than January 1, 1999, the head of the department or agency designated under subsection (a) shall establish an advisory committee consisting of members of the general public, including Persian Gulf War veterans and representatives of such veterans, to provide advice to the head of that department or agency on proposed research studies, research plans, or research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Persian Gulf War. The department or agency head shall consult with such advisory committee on a regular basis.

''(c) REPORTS.—(1) Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on—

''(A) the status and results of all such research activities undertaken by the executive branch during the previous year; and

''(B) research priorities identified during that year.

''(2)(A) Not later than 120 days after submission of the epidemiological research study conducted by the Department of Veterans Affairs entitled 'VA National Survey of Persian Gulf Veterans—Phase III', the head of the department or agency designated under subsection (a) shall submit to the congressional committees specified in paragraph (1) a report on the findings under that study and any other pertinent medical literature.

''(B) With respect to any findings of that study and any other pertinent medical literature which identify scientific evidence of a greater relative risk of illness or illnesses in family members of veterans who served in the Persian Gulf War theater of operations than in family members of veterans who did not so serve, the head of the department or agency designated under subsection (a) shall seek to ensure that appropriate research studies are designed to follow up on such findings.

''(d) PUBLIC AVAILABILITY OF RESEARCH FINDINGS.—The head of the department or agency designated under subsection (a) shall ensure that the findings of all research conducted by or for the executive branch relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War (including information pertinent to improving provision of care for veterans of such service) are made available to the public through peer-reviewed medical journals, the World Wide Web, and other appropriate media.

''(e) OUTREACH.—The head of the department or agency designated under subsection (a) shall ensure that the appropriate departments consult and coordinate in carrying out an ongoing program to provide information to those who served in the Southwest Asia theater of operations during the Persian Gulf War relating to (1) the health risks, if any, resulting from any risk factors associated with such service, and (2) any services or benefits available with respect to such health risks.''.

SEC. 105. IMPROVING EFFECTIVENESS OF CARE OF PERSIAN GULF WAR VETERANS.

(a) ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.—Not later than April 1, 1999, the Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences to review the available scientific data in order to—

(1) assess whether a methodology could be used by the Department of Veterans Affairs for determining the efficacy of treatments furnished to, and health outcomes (including functional status) of, Persian Gulf War veterans who have been treated for illnesses which may be associated with their service in the Persian Gulf War; and

(2) identify, to the extent feasible, with respect to each undiagnosed illness prevalent among such veterans and for any other chronic illness that the Academy determines to warrant such review, empirically valid models of treatment for such illness which employ successful treatment modalities for populations with similar symptoms.

(b) ACTION ON REPORT.—(1) After receiving the final report of the National Academy of Sciences under subsection (a), the Secretary shall, if a reasonable and scientifically feasible methodology is identified by the Academy, develop an appropriate mechanism to monitor and study the effectiveness of treatments furnished to, and health outcomes of, Persian Gulf War veterans who suffer from diagnosed and undiagnosed illnesses which may be associated with their service in the Persian Gulf War.

(2) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of paragraph (1).

(3) The Secretary shall carry out paragraphs (1) and (2) not later than 180 days after receiving the final report of the National Academy of Sciences under subsection (a).

SEC. 106. CONTRACT FOR INDEPENDENT RECOMMENDATIONS ON RESEARCH AND FOR DEVELOPMENT OF CURRICULUM ON CARE OF PERSIAN GULF WAR VETERANS.

Section 706 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended by adding at the end the following new subsection:

''(d) RESEARCH REVIEW AND DEVELOPMENT OF MEDICAL EDUCATION CURRICULUM.—(1) In order to further understanding of the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War and of new research findings with implications for improving the provision of care for veterans of such service, the Secretary of Veterans Affairs and the Secretary of Defense shall seek

to enter into an agreement with the National Academy of Sciences under which the Institute of Medicine of the Academy would—

''(A) develop a curriculum pertaining to the care and treatment of veterans of such service who have ill-defined or undiagnosed illnesses for use in the continuing medical education of both general and specialty physicians who provide care for such veterans; and

''(B) on an ongoing basis, periodically review and provide recommendations regarding the research plans and research strategies of the Departments relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

''(2) Recommendations to be provided under paragraph (1)(B) include any recommendations that the Academy considers appropriate for additional scientific studies (including studies related to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of any aspects of such military service. In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

''(3) Not later than nine months after the Institute of Medicine provides the Secretaries the curriculum developed under paragraph (1)(A), the Secretaries shall provide for the conduct of continuing education programs using that curriculum. Those programs shall include instruction which seeks to emphasize use of appropriate protocols of diagnosis, referral, and treatment of such veterans.''.

SEC. 107. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) ONE-YEAR EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out ''December 31, 1998'' and inserting in lieu thereof ''December 31, 1999''.

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of such section is amended—

(1) by striking out ''the'' after ''Secretary of'';

(2) by striking out ''study'' both places it appears and inserting in lieu thereof ''program''; and

(3) by striking out the sentence following paragraph (3).

(c) ENHANCED FLEXIBILITY IN EXAMINATIONS.—Subsection (d) of such section is amended—

(1) by striking out ''shall'' and inserting in lieu thereof ''may''; and

(2) by inserting '', including fee arrangements described in section 1703 of title 38, United States Code'' after ''arrangements''.

(d) OUTREACH.—Subsection (g) of such section is amended—

(1) by striking out ''to ensure'' and all that follows through the period at the end of paragraph (2) and inserting in lieu thereof ''for the purposes of the program.''; and

(2) by adding at the end the following new sentence: ''In conducting such outreach activities, the Secretary shall advise that medical treatment is not available under the program.''.

(e) REPORT TO CONGRESS.—Subsection (i) of such section is amended to read as follows:

''(i) REPORT TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on activities with respect to the program, including the provision of services under subsection (d).''.

TITLE II—EDUCATION AND EMPLOYMENT

Subtitle A—Education Matters

SEC. 201. CALCULATION OF REPORTING FEE BASED ON TOTAL VETERAN ENROLLMENT DURING A CALENDAR YEAR.

(a) IN GENERAL.—The second sentence of section 3684(c) is amended by striking out ''on October 31'' and all that follows through the period and inserting in lieu thereof ''during the calender year.''.

(b) FUNDING.—Section 3684(c), as amended by subsection (a), is further amended by adding at the end the following new sentence: ''The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after December 31, 1998.

SEC. 202. ELECTION OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

(a) IN GENERAL.—The third sentence of section 3485(a)(1) is amended by striking out ''An individual shall be paid in advance'' and inserting in lieu thereof ''An individual may elect, in a manner prescribed by the Secretary, to be paid in advance''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after January 1, 1999.

SEC. 203. ALTERNATIVE TO TWELVE SEMESTER HOUR EQUIVALENCY REQUIREMENT.

(a) IN GENERAL.—The following sections of chapter 30 are each amended by striking out ''successfully completed'' each place it appears and inserting in lieu thereof ''successfully completed (or otherwise received academic credit for)'': sections 3011(a)(2), 3012(a)(2), 3018(b)(4)(ii), 3018A(a)(2), 3018B(a)(1)(B), 3018B(a)(2)(B), and 3018C(a)(3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998.

SEC. 204. MEDICAL EVIDENCE FOR FLIGHT TRAINING REQUIREMENTS.

(a) TITLE 38, UNITED STATES CODE.—Sections 3034(d)(2) and 3241(b)(2) are each amended—

(1) by striking out ''pilot's license'' each place it appears and inserting in lieu thereof ''pilot certificate''; and

(2) by inserting '', on the day the individual begins a course of flight training,'' after ''meets''.

(b) TITLE 10, UNITED STATES CODE.—Section 16136(c)(2) of title 10, United States Code, is amended—

(1) by striking out ''pilot's license'' each place it appears and inserting in lieu thereof ''pilot certificate''; and

(2) by inserting '', on the day the individual begins a course of flight training,'' after ''meets''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to courses of flight training beginning on or after October 1, 1998.

SEC. 205. WAIVER OF WAGE INCREASE AND MINIMUM PAYMENT RATE REQUIREMENTS FOR GOVERNMENT JOB TRAINING PROGRAM APPROVAL.

(a) IN GENERAL.—Section 3677(b) is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in subparagraph (A), as so redesignated, by striking out ''(A)'' and ''(B)'' and inserting in lieu thereof ''(i)'' and ''(ii)'', respectively; and

(4) by adding at the end the following new paragraph:

''(2) The requirement under paragraph (1)(A)(ii) shall not apply with respect to a training establishment operated by the United States or by a State or local government.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to approval of programs of training on the job under section 3677 of title 38, United States Code, on or after October 1, 1998.

SEC. 206. EXPANSION OF EDUCATION OUTREACH SERVICES.

(a) EXPANSION OF EDUCATION OUTREACH SERVICES TO MEMBERS OF THE ARMED FORCES.—Section 3034 is amended by adding at the end the following new subsection:

''(e)(1) In the case of a member of the Armed Forces who participates in basic educational assistance under this chapter, the Secretary shall furnish the information described in paragraph (2) to each such member. The Secretary shall furnish such information as soon as practicable after the basic pay of the member has been reduced by $1,200 in accordance with section 3011(b) or 3012(c) of this title and at such additional times as the Secretary determines appropriate.

''(2) The information referred to in paragraph (1) is information with respect to the benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of the basic educational assistance program under this chapter, including application forms for such basic educational assistance under section 5102 of this title.

''(3) The Secretary shall furnish the forms described in paragraph (2) and other educational materials to educational institutions, training establishments, and military education personnel, as the Secretary determines appropriate.

''(4) The Secretary shall use amounts appropriated for readjustment benefits to carry out this subsection and section 5102 of this title with respect to application forms under that section for basic educational assistance under this chapter.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.÷

SEC. 207. INFORMATION ON MINIMUM REQUIREMENTS FOR EDUCATION BENEFITS FOR MEMBERS OF THE ARMED FORCES DISCHARGED EARLY FROM DUTY FOR THE CONVENIENCE OF THE GOVERNMENT.

(a) ACTIVE DUTY PROGRAM.—Section 3011 is amended by adding at the end the following new subsection:

''(i) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member's initial obligated period of active duty (as described in subsection (a)(1)(A)) and who indicates the intent to be discharged or released from such duty for the convenience of the Government of the minimum active duty requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.''.

(b) RESERVE PROGRAM.—Section 3012 is amended by adding at the end the following new subsection:

''(g)(1) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member's initial service (as described in paragraph (2)) and who indicates the intent to be discharged or released from such service for the convenience of the Government of the minimum service requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.

''(2) The initial service referred to in paragraph (1) is the initial obligated period of active duty (described in subparagraphs (A)(i) or (B)(i) of subsection (a)(1)) or the period of service in the Selected Reserve (described in subparagraphs (A)(ii) or (B)(ii) of subsection (a)(1)).''.

(c) REPORT TO CONGRESS.—Section 3036(b)(1) is amended—

(1) by striking out ''and (B)'' and inserting in lieu thereof ''(B)''; and

(2) by inserting before the semicolon the following: '', and (C) describing the efforts under sections 3011(i) and 3012(g) of this title to inform members of the Armed Forces of the minimum service requirements for entitlement to educational assistance benefits under this chapter and the results from such efforts''.

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (b) shall take effect 120 days after the date of the enactment of this Act.

(2) The amendments made by subsection (c) shall apply with respect to reports to Congress submitted by the Secretary of Defense under section 3036 of title 38, United States Code, on or after January 1, 2000.

Subtitle B—Uniformed Services Employment and Reemployment Rights Act Amendments

SEC. 211. ENFORCEMENT OF RIGHTS WITH RESPECT TO A STATE AS AN EMPLOYER.

(a) IN GENERAL.—Section 4323 is amended to read as follows:

"§ 4323. Enforcement of rights with respect to a State or private employer

''(a) ACTION FOR RELIEF.—(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for relief under this chapter for such person. In the case of such an action against a State (as an employer), the action shall be brought in the name of the United States as the plaintiff in the action.

''(2) A person may commence an action for relief with respect to a complaint against a State (as an employer) or a private employer if the person—

''(A) has chosen not to apply to the Secretary for assistance under section 4322(a) of this title;

''(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

''(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

''(b) JURISDICTION.—(1) In the case of an action against a State (as an employer) or a private employer commenced by the United States, the district courts of the United States shall have jurisdiction over the action.

''(2) In the case of an action against a State (as an employer) by a person, the action may be brought in a State court of competent jurisdiction in accordance with the laws of the State.

''(3) In the case of an action against a private employer by a person, the district courts of the United States shall have jurisdiction of the action.

''(c) VENUE.—(1) In the case of an action by the United States against a State (as an employer), the action may proceed in the United States district court for any district in which the State exercises any authority or carries out any function.

''(2) In the case of an action against a private employer, the action may proceed in the United States district court for any district in which the private employer of the person maintains a place of business.

''(d) REMEDIES.—(1) In any action under this section, the court may award relief as follows:

''(A) The court may require the employer to comply with the provisions of this chapter.

''(B) The court may require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter.

''(C) The court may require the employer to pay the person an amount equal to the amount referred to in subparagraph (B) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

''(2)(A) Any compensation awarded under subparagraph (B) or (C) of paragraph (1) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under this chapter.

''(B) In the case of an action commenced in the name of the United States for which the relief includes compensation awarded under subparagraph (B) or (C) of paragraph (1), such compensation shall be held in a special deposit account and shall be paid, on order of the Attorney General, directly to the person. If the compensation is not paid to the person because of inability to do so within a period of three years, the compensation shall be covered into the Treasury of the United States as miscellaneous receipts.

''(3) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

''(e) EQUITY POWERS.—The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

''(f) STANDING.—An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter under subsection (a) or by the United States under subsection (a)(1).

''(g) RESPONDENT.—In any action under this chapter, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

''(h) FEES, COURT COSTS.—(1) No fees or court costs may be charged or taxed against any person claiming rights under this chapter.

''(2) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

''(i) INAPPLICABILITY OF STATE STATUTE OF LIMITATIONS.—No State statute of limitations shall apply to any proceeding under this chapter.

''(j) DEFINITION.—In this section, the term 'private employer' includes a political subdivision of a State.''.

(b) EFFECTIVE DATE.—(1) Section 4323 of title 38, United States Code, as amended by subsection (a), shall apply to actions commenced under chapter 43 of such title on or after the date of the enactment of this Act, and shall apply to actions commenced under such chapter before the date of the enactment of this Act that are not final on the date of the enactment of this Act, without regard to when the cause of action accrued.

(2) In the case of any such action against a State (as an employer) in which a person, on the day before the date of the enactment of this Act, is represented by the Attorney General under section 4323(a)(1) of such title as in effect on such day, the court shall upon motion of the Attorney General, substitute the United States as the plaintiff in the action pursuant to such section as amended by subsection (a).

SEC. 212. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.

(a) DEFINITION OF EMPLOYEE.—Section 4303(3) is amended by adding at the end the following new sentence: ''Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.''.

(b) FOREIGN COUNTRIES.—(1) Subchapter II of chapter 43 is amended by inserting after section 4318 the following new section:

"§ 4319. Employment and reemployment rights in foreign countries

''(a) LIABILITY OF CONTROLLING UNITED STATES EMPLOYER OF FOREIGN ENTITY.—If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by such employer.

''(b) INAPPLICABILITY TO FOREIGN EMPLOYER.—This subchapter does not apply to foreign operations of an employer that is a foreign person not controlled by an United States employer.

''(c) DETERMINATION OF CONTROLLING EMPLOYER.—For the purpose of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

''(d) EXEMPTION.—Notwithstanding any other provision of this subchapter, an employer, or an entity controlled by an employer, shall be exempt from compliance with any of sections 4311 through 4318 of this title with respect to an employee in a workplace in a foreign country, if compliance with that section would cause such employer, or such entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.''.

(2) The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4318 the following new item:

''4319. Employment and reemployment rights in foreign countries.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to causes of action arising after the date of the enactment of this Act.

SEC. 213. COMPLAINTS RELATING TO REEMPLOYMENT OF MEMBERS OF THE UNIFORMED SERVICES IN FEDERAL SERVICE.

(a) IN GENERAL.—The first sentence of paragraph (1) of section 4324(c) is amended by inserting before the period at the end the following: '', without regard as to whether the complaint accrued before, on, or after October 13, 1994''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to complaints filed with the Merit Systems Protection Board on or after October 13, 1994.

TITLE III—COMPENSATION, PENSION, AND INSURANCE

SEC. 301. MEDAL OF HONOR SPECIAL PENSION.

(a) INCREASE.—Section 1562(a) is amended by striking out ''$400'' and inserting in lieu thereof ''$600''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

SEC. 302. ACCELERATED DEATH BENEFIT FOR SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE PARTICIPANTS.

(a) IN GENERAL.—(1) Subchapter III of chapter 19 is amended by adding at the end the following new section:

"§ 1980. Option to receive accelerated death benefit

''(a) For the purpose of this section, a person shall be considered to be terminally ill if the person has a medical prognosis such that the life expectancy of the person is less than a period prescribed by the Secretary. The maximum length of such period may not exceed 12 months.

''(b)(1) A terminally ill person insured under Servicemembers' Group Life Insurance or Veterans' Group Life Insurance may elect to receive in a lump-sum payment a portion of the face value of the insurance as an accelerated death benefit reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined by the Secretary.

''(2) The Secretary shall prescribe the maximum amount of the accelerated death benefit available under this section that the Secretary

finds to be administratively practicable and actuarially sound, but in no event may the amount of the benefit exceed the amount equal to 50 percent of the face value of the person's insurance in force on the date the election of the person to receive the benefit is approved.

''(3) A person making an election under this section may elect to receive an amount that is less than the maximum amount prescribed under paragraph (2). The Secretary shall prescribe the increments in which a reduced amount under this paragraph may be elected.

''(c) The portion of the face value of insurance which is not paid in a lump sum as an accelerated death benefit under this section shall remain payable in accordance with the provisions of this chapter.

''(d) Deductions under section 1969 of this title and premiums under section 1977(c) of this title shall be reduced, in a manner consistent with the percentage reduction in the face value of the insurance as a result of payment of an accelerated death benefit under this section, effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

''(e) The Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions regarding—

''(1) the form and manner in which an application for an election under this section shall be made; and

''(2) the procedures under which any such application shall be considered.

''(f)(1) An election to receive a benefit under this section shall be irrevocable.

''(2) A person may not make more than one election under this section, even if the election of the person is to receive less than the maximum amount of the benefit available to the person under this section.

''(g) If a person insured under Servicemembers' Group Life Insurance elects to receive a benefit under this section and the person's Servicemembers' Group Life Insurance is thereafter converted to Veterans' Group Life Insurance as provided in section 1968(b) of this title, the amount of the benefit paid under this section shall reduce the amount of Veterans' Group Life Insurance available to the person under section 1977(a) of this title.

''(h) Notwithstanding any other provision of law, the amount of the accelerated death benefit received by a person under this section shall not be considered income or resources for purposes of determining eligibility for or the amount of benefits under any Federal or federally-assisted program or for any other purpose.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1979 the following new item:

''1980. Option to receive accelerated death benefit.''.

(b) CONFORMING AMENDMENTS.—Section 1970(g) is amended in the first sentence—

(1) by striking out ''Payments of benefits'' and inserting in lieu thereof ''Any payments''; and

(2) by inserting ''an insured or'' after ''or on account of,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 303. ASSESSMENT OF EFFECTIVENESS OF INSURANCE AND SURVIVOR BENEFITS PROGRAMS FOR SURVIVORS OF VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REPORT ON ASSESSMENT.—Not later than October 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing an assessment of the adequacy of the insurance and survivor benefits programs of the Department of Veterans Affairs (including the payment of dependency and indemnity compensation under chapter 13 of title 38, United States Code) in meeting the needs of survivors of veterans with service-connected disabilities, including survivors of catastrophically disabled veterans who cared for those veterans.

(b) REPORT ELEMENTS.—The report on the assessment under subsection (a) shall include the following:

(1) An identification of the characteristics that make a disabled veteran catastrophically disabled.

(2) A statement of the number of veterans with service-connected disabilities who participate in insurance programs administered by the Department.

(3) A statement of the number of survivors of veterans with service-connected disabilities who receive dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(4) Data on veterans with service-connected disabilities that are relevant to the insurance programs administered by the Department, and an assessment how such data might be used to better determine the cost above standard premium rates of insuring veterans with service-connected disabilities under such programs.

(5) An analysis of various methods of accounting and providing for the additional cost of insuring the lives of veterans with service-connected disabilities under the insurance programs administered by the Department.

(6) An assessment of the adequacy and effectiveness of the current insurance programs and dependency and indemnity compensation programs of the Department in meeting the needs of survivors of severely-disabled or catastrophically-disabled veterans.

(7) An analysis of various methods of meeting the transitional financial needs of survivors of veterans with service-connected disabilities immediately after the deaths of such veterans.

(8) Such recommendations as the Secretary considers appropriate regarding means of improving the benefits available to survivors of veterans with service-connected disabilities under programs administered by the Department.

SEC. 304. NATIONAL SERVICE LIFE INSURANCE PROGRAM.

(a) ELIGIBILITY OF CERTAIN VETERANS FOR DIVIDENDS UNDER NSLI PROGRAM.—Section 1919(b) is amended—

(1) by striking ''sections 602(c)(2) and'' and inserting ''section''; and

(2) by striking ''sections'' after ''under such'' and inserting ''section''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

TITLE IV—MEMORIAL AFFAIRS

SEC. 401. COMMEMORATION OF INDIVIDUALS WHOSE REMAINS ARE UNAVAILABLE FOR INTERMENT.

(a) MEMORIAL HEADSTONES OR MARKERS FOR CERTAIN MEMBERS OF THE ARMED FORCES AND SPOUSES.—Subsection (b) of section 2306 is amended to read as follows:

''(b)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans' cemetery owned by a State, or, in the case of a veteran, in a State, local, or private cemetery.

''(2) For purposes of paragraph (1), an eligible individual is any of the following:

''(A) A veteran.

''(B) The spouse or surviving spouse of a veteran.

''(3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual's remains—

''(A) have not been recovered or identified;

''(B) were buried at sea, whether by the individual's own choice or otherwise;

''(C) were donated to science; or

''(D) were cremated and the ashes scattered without interment of any portion of the ashes.

''(4) For purposes of this subsection:

''(A) The term 'veteran' includes an individual who dies in the active military, naval, or air service.

''(B) The term 'surviving spouse' includes an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce.''.

(b) ALTERNATIVE COMMEMORATION FOR CERTAIN SPOUSES.—Such section is further amended by adding at the end the following new subsection:

''(e)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse of such individual.

''(2) When the Secretary has furnished a memorial headstone or marker under subsection (b) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse of such individual.''.

(c) MEMORIAL AREAS.—Section 2403(b) is amended to read as follows:

''(b) Under regulations prescribed by the Secretary, group memorials may be placed to honor the memory of groups of individuals referred to in subsection (a), and appropriate memorial headstones and markers may be placed to honor the memory of individuals referred to in subsection (a) and section 2306(b) of this title.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to deaths occurring after the date of the enactment of this Act.

SEC. 402. MERCHANT MARINER BURIAL AND CEMETERY BENEFITS.

(a) BENEFITS.—Part G of subtitle II of title 46, United States Code, is amended by inserting after chapter 111 the following new chapter:

''CHAPTER 112—MERCHANT MARINER BENEFITS

''Sec.
''11201. Eligibility for veterans' burial and cemetery benefits.
''11202. Qualified service.
''11203. Documentation of qualified service.
''11204. Processing fees.

''§ 11201. Eligibility for veterans' burial and cemetery benefits

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The qualified service of a person referred to in paragraph (2) shall be considered to be active duty in the Armed Forces during a period of war for purposes of eligibility for benefits under the following provisions of title 38:

''(A) Chapter 23 (relating to burial benefits).

''(B) Chapter 24 (relating to interment in national cemeteries).

''(2) COVERED INDIVIDUALS.—Paragraph (1) applies to a person who—

''(A) receives an honorable service certificate under section 11203 of this title; and

''(B) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs.

''(b) REIMBURSEMENT FOR BENEFITS PROVIDED.—The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for a person by reason of eligibility under this section.

''(c) APPLICABILITY.—

''(1) GENERAL RULE.—Benefits may be provided under the provisions of law referred to in

subsection (a)(1) by reason of this chapter only for deaths occurring after the date of the enactment of this chapter.

''(2) BURIALS, ETC. IN NATIONAL CEMETERIES.—Notwithstanding paragraph (1), in the case of an initial burial or columbarium placement after the date of the enactment of this chapter, benefits may be provided under chapter 24 of title 38 by reason of this chapter (regardless of the date of death), and in such a case benefits may be provided under section 2306 of such title.

''§ 11202. Qualified service

''For purposes of this chapter, a person shall be considered to have engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

''(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transportation Service) serving as a crewmember of a vessel that was—

''(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

''(B) operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;

''(C) under contract or charter to, or property of, the Government of the United States; and

''(D) serving the Armed Forces; and

''(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

''§ 11203. Documentation of qualified service

''(a) RECORD OF SERVICE.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall, upon application—

''(1) issue a certificate of honorable service to a person who, as determined by that Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

''(2) correct, or request the appropriate official of the Government to correct, the service records of that person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable service.

''(b) TIMING OF DOCUMENTATION.—A Secretary receiving an application under subsection (a) shall act on the application not later than one year after the date of that receipt.

''(c) STANDARDS RELATING TO SERVICE.—In making a determination under subsection (a)(1), the Secretary acting on the application shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

''(d) CORRECTION OF RECORDS.—An official who is requested under subsection (a)(2) to correct the service records of a person shall make such correction.

''§ 11204. Processing fees

''(a) COLLECTION OF FEES.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall collect a fee of $30 from each applicant for processing an application submitted under section 11203(a) of this title.

''(b) TREATMENT OF FEES COLLECTED.—Amounts received by the Secretary under this section shall be deposited in the General Fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Amounts received by the Secretary of Defense under this section shall be deposited in the General Fund of the Treasury as offsetting receipts of the Department of Defense. In either case, such amounts shall be available, subject to appropriation, for the administrative costs of processing applications under section 11203 of this title.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following new item:

''112. Merchant Mariner Benefits ..... 11201''.

SEC. 403. REDESIGNATION OF NATIONAL CEMETERY SYSTEM AND ESTABLISHMENT OF UNDER SECRETARY FOR MEMORIAL AFFAIRS.

(a) REDESIGNATION AS NATIONAL CEMETERY ADMINISTRATION.—(1) The National Cemetery System of the Department of Veterans Affairs shall hereafter be known and designated as the National Cemetery Administration. The position of Director of the National Cemetery System is hereby redesignated as Under Secretary of Veterans Affairs for Memorial Affairs.

(2) Section 301(c)(4) is amended by striking out ''National Cemetery System'' and inserting in lieu thereof ''National Cemetery Administration''.

(3) Section 307 is amended—

(A) in the first sentence, by striking out ''a Director of the National Cemetery System'' and inserting in lieu thereof ''an Under Secretary for Memorial Affairs''; and

(B) in the second sentence, by striking out ''The Director'' and all that follows through ''National Cemetery System'' and inserting in lieu thereof ''The Under Secretary is the head of the National Cemetery Administration''.

(b) PAY RATE FOR UNDER SECRETARY.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5314, by inserting after the item relating to the Under Secretary for Benefits of the Department of Veterans Affairs the following new item:

''Under Secretary for Memorial Affairs, Department of Veterans Affairs.''; and

(2) in section 5315, by striking out ''Director of the National Cemetery System.''.

(c) CONFORMING AMENDMENTS.—

(1)(A) The heading of section 307 is amended to read as follows:

''§ 307. Under Secretary for Memorial Affairs''.

(B) The item relating to section 307 in the table of sections at the beginning of chapter 3 is amended to read as follows:

''307. Under Secretary for Memorial Affairs.''.

(2) Section 2306(d) is amended by striking out ''within the National Cemetery System'' each place such term appears and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(3) Section 2400 is amended—

(A) in subsection (a)—

(i) by striking out ''National Cemetery System'' and inserting in lieu thereof ''National Cemetery Administration responsible''; and

(ii) in the second sentence, by striking out ''Such system'' and all that follows through ''National Cemetery System'' and inserting in lieu thereof ''The National Cemetery Administration shall be headed by the Under Secretary for Memorial Affairs'';

(B) in subsection (b), by striking out ''National Cemetery System'' and inserting in lieu thereof ''national cemeteries and other facilities under the control of the National Cemetery Administration''; and

(C) by amending the heading to read as follows:

''§ 2400. Establishment of National Cemetery Administration; composition of Administration''.

(4) The item relating to section 2400 in the table of sections at the beginning of chapter 24 is amended to read as follows:

''2400. Establishment of National Cemetery Administration; composition of Administration.''.

(5) Section 2402 is amended in the matter preceding paragraph (1) by striking out ''in the National Cemetery System'' and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(6) Section 2403(c) is amended by striking out ''in the National Cemetery System created by this chapter'' and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(7) Section 2405(c) is amended—

(A) by striking out ''within the National Cemetery System'' and inserting in lieu thereof ''under the control of the National Cemetery Administration''; and

(B) by striking out ''within such System'' and inserting in lieu thereof ''under the control of such Administration''.

(8) Section 2408(c)(1) is amended by striking out ''in the National Cemetery System'' and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(d) REFERENCES.—

(1) Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Cemetery System shall be deemed to be a reference to the National Cemetery Administration.

(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the National Cemetery System shall be deemed to be a reference to the Under Secretary of Veterans Affairs for Memorial Affairs.

SEC. 404. STATE CEMETERY GRANTS PROGRAM.

(a) AMOUNT OF GRANT RELATIVE TO PROJECT COST.—(1) Paragraphs (1) and (2) of section 2408(b) are amended to read as follows:

''(1) The amount of a grant under this section may not exceed—

''(A) in the case of the establishment of a new cemetery, the sum of (i) the cost of improvements to be made on the land to be converted into a cemetery, and (ii) the cost of initial equipment necessary to operate the cemetery; and

''(B) in the case of the expansion or improvement of an existing cemetery, the sum of (i) the cost of improvements to be made on any land to be added to the cemetery, and (ii) the cost of any improvements to be made to the existing cemetery.

''(2) If the amount of a grant under this section is less than the amount of costs referred to in subparagraph (A) or (B) of paragraph (1), the State receiving the grant shall contribute the excess of such costs over the grant.''.

(2) The amendment made by paragraph (1) shall apply with respect to grants under section 2408 of title 38, United States Code, made after the end of the 60-day period beginning on the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS WITHOUT FISCAL YEAR LIMITATION.—The first sentence of section 2408(e) is amended by striking out ''shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated'' and inserting in lieu thereof ''shall remain available until expended''.

(c) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANT PROGRAM.—Paragraph (2) of section 2408(a) is amended to read as follows:

''(2) There is authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each succeeding fiscal year through fiscal year 2004 for the purpose of making grants under paragraph (1).''.

TITLE V—COURT OF VETERANS APPEALS

Subtitle A—Administrative Provisions Relating to the Court

SEC. 501. CONTINUATION IN OFFICE OF JUDGES PENDING CONFIRMATION FOR SECOND TERM.

Section 7253(c) is amended by adding at the end the following new sentence: ''A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to one year while that nomination is pending.''.

SEC. 502. EXEMPTION OF RETIREMENT FUND FROM SEQUESTRATION ORDERS.

Section 7298 is amended by adding at the end the following new subsection:

''(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Claims Judges' Retirement Fund.''.

SEC. 503. ADJUSTMENTS FOR SURVIVOR ANNUITIES.

Subsection (o) of section 7297 is amended to read as follows:

''(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors' Annuities Fund are increased pursuant to section 376(m) of title 28.''.

SEC. 504. REPORTS ON RETIREMENT PROGRAM MODIFICATIONS.

(a) REPORT ON JUDGES' RETIREMENT SYSTEM.—Not later than one year after the date of the enactment of this Act, the chief judge of the United States Court of Appeals for Veterans Claims shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of merging the retirement plan of the judges of that court with retirement plans of other Federal judges.

(b) REPORT ON SURVIVOR ANNUITIES PLAN.—Not later than six months after the date of the enactment of this Act, the chief judge of the United States Court of Appeals for Veterans Claims shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of allowing judges of that court to participate in the survivor annuity programs available to other Federal judges.

Subtitle B—Renaming of Court

SEC. 511. RENAMING OF THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims.

(b) SECTION 7251.—Section 7251 is amended by striking ''United States Court of Veterans Appeals'' and inserting ''United States Court of Appeals for Veterans Claims''.

SEC. 512. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—

(1) The following sections are amended by striking ''Court of Veterans Appeals'' each place it appears and inserting ''Court of Appeals for Veterans Claims'': sections 5904, 7101(b), 7252(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298.

(2)(A) The heading of section 7286 is amended to read as follows:

''§ 7286. Judicial Conference of the Court''.

(B) The heading of section 7291 is amended to read as follows:

''§ 7291. Date when Court decision becomes final''.

(C) The heading of section 7298 is amended to read as follows:

''§ 7298. Retirement Fund''.

(3) The table of sections at the beginning of chapter 72 is amended as follows:

(A) The item relating to section 7286 is amended to read as follows:

''7286. Judicial Conference of the Court.''.

(B) The item relating to section 7291 is amended to read as follows:

''7291. Date when Court decision becomes final.''.

(C) The item relating to section 7298 is amended to read as follows:

''7298. Retirement Fund.''.

(4)(A) The heading of chapter 72 is amended to read as follows:

''CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS''.

(B) The item relating to chapter 72 in the table of chapters at the beginning of title 38, United States Code, and the item relating to such chapter in the table of chapters at the beginning of part V are amended to read as follows:

''72. United States Court of Appeals for Veterans Claims ..... 7251''.

(b) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following provisions of law are amended by striking ''Court of Veterans Appeals'' each place it appears and inserting ''Court of Appeals for Veterans Claims'':

(A) Section 8440d of title 5, United States Code.

(B) Section 2412 of title 28, United States Code.

(C) Section 906 of title 44, United States Code.

(D) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2)(A) The heading of section 8440d of title 5, United States Code, is amended to read as follows:

''§ 8440d. Judges of the United States Court of Appeals for Veterans Claims''.

(B) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

''8440d. Judges of the United States Court of Appeals for Veterans Claims.''.

(c) OTHER LEGAL REFERENCES.—Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.

SEC. 513. EFFECTIVE DATE.

This subtitle, and the amendments made by this subtitle, shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

TITLE VI—HOUSING

SEC. 601. LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS.

(a) IN GENERAL.—Chapter 37 is amended by adding at the end the following new subchapter:

''SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

''§ 3771. Definitions

''For purposes of this subchapter:

''(1) The term 'veteran' has the meaning given such term by paragraph (2) of section 101.

''(2) The term 'homeless veteran' means a veteran who is a homeless individual.

''(3) The term 'homeless individual' has the meaning given such term by section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

''§ 3772. General authority

''(a) The Secretary may guarantee the full or partial repayment of a loan that meets the requirements of this subchapter.

''(b)(1) Not more than 15 loans may be guaranteed under subsection (a), of which not more than five such loans may be guaranteed during the three-year period beginning on the date of the enactment of this subchapter.

''(2) A guarantee of a loan under subsection (a) shall be in an amount that is not less than the amount necessary to sell the loan in a commercial market.

''(3) Not more than an aggregate amount of $100,000,000 in loans may be guaranteed under subsection (a).

''(c) A loan may not be guaranteed under this subchapter unless, before closing such loan, the Secretary has approved the loan.

''(d)(1) The Secretary shall enter into contracts with a qualified nonprofit organization, or other qualified organization, that has experience in underwriting transitional housing projects to obtain advice in carrying out this subchapter, including advice on the terms and conditions necessary for a loan that meets the requirements of section 3773 of this title.

''(2) For purposes of paragraph (1), a nonprofit organization is an organization that is described in paragraph (3) or (4) of subsection (c) of section 501 of the Internal Revenue Code of 1986 and is exempt from tax under subsection (a) of such section.

''(e) The Secretary may carry out this subchapter in advance of the issuance of regulations for such purpose.

''(f) The Secretary may guarantee loans under this subchapter notwithstanding any requirement for prior appropriations for such purpose under any provision of law.

''§ 3773. Requirements

''(a) A loan referred to in section 3772 of this title meets the requirements of this subchapter if each of the following requirements is met:

''(1) The loan—

''(A) is for—

''(i) construction of, rehabilitation of, or acquisition of land for a multifamily transitional housing project described in subsection (b), or more than one of such purposes; or

''(ii) refinancing of an existing loan for such a project; and

''(B) may also include additional reasonable amounts for—

''(i) financing acquisition of furniture, equipment, supplies, or materials for the project; or

''(ii) in the case of a loan made for purposes of subparagraph (A)(i), supplying the organization carrying out the project with working capital relative to the project.

''(2) The loan is made in connection with funding or the provision of substantial property or services for such project by either a State or local government or a nongovernmental entity, or both.

''(3) The maximum loan amount does not exceed the lesser of—

''(A) that amount generally approved (utilizing prudent underwriting principles) in the consideration and approval of projects of similar nature and risk so as to assure repayment of the loan obligation; and

''(B) 90 percent of the total cost of the project.

''(4) The loan is of sound value, taking into account the creditworthiness of the entity (and the individual members of the entity) applying for such loan.

''(5) The loan is secured.

''(6) The loan is subject to such terms and conditions as the Secretary determines are reasonable, taking into account other housing projects with similarities in size, location, population, and services provided.

''(b) For purposes of this subchapter, a multifamily transitional housing project referred to in subsection (a)(1) is a project that—

''(1) provides transitional housing to homeless veterans, which housing may be single room occupancy (as defined in section 8(n) of the United States Housing Act of 1937 (42 U.S.C. 1437f(n)));

''(2) provides supportive services and counselling services (including job counselling) at the project site with the goal of making such veterans self-sufficient;

''(3) requires that each such veteran seek to obtain and maintain employment;

''(4) charges a reasonable fee for occupying a unit in such housing; and

''(5) maintains strict guidelines regarding sobriety as a condition of occupying such unit.

''(c) Such a project—

''(1) may include space for neighborhood retail services or job training programs; and

''(2) may provide transitional housing to veterans who are not homeless and to homeless individuals who are not veterans if—

''(A) at the time of taking occupancy by any such veteran or homeless individual, the transitional housing needs of homeless veterans in the project area have been met;

''(B) the housing needs of any such veteran or homeless individual can be met in a manner that is compatible with the manner in which the needs of homeless veterans are met under paragraph (1); and

''(C) the provisions of paragraphs (4) and (5) of subsection (b) are met.

''(d) In determining whether to guarantee a loan under this subchapter, the Secretary shall consider—

''(1) the availability of Department of Veterans Affairs medical services to residents of the multifamily transitional housing project; and

''(2) the extent to which needs of homeless veterans are met in a community, as assessed under section 107 of Public Law 102–405.

''§ 3774. Default

''(a) The Secretary shall take such steps as may be necessary to obtain repayment on any loan that is in default and that is guaranteed under this subchapter.

''(b) Upon default of a loan guaranteed under this subchapter and terminated pursuant to State law, a lender may file a claim under the guarantee for an amount not to exceed the lesser of—

''(1) the maximum guarantee; or

''(2) the difference between—

''(A) the total outstanding obligation on the loan, including principal, interest, and expenses authorized by the loan documents, through the date of the public sale (as authorized under such documents and State law); and

''(B) the amount realized at such sale.

''§ 3775. Audit

''During each of the first three years of operation of a multifamily transitional housing project with respect to which a loan is guaranteed under this subchapter, there shall be an annual, independent audit of such operation. Such audit shall include a detailed statement of the operations, activities, and accomplishments of such project during the year covered by such audit. The party responsible for obtaining such audit (and paying the costs therefor) shall be determined before the Secretary issues a guarantee under this subchapter.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 is amended by adding at the end the following new items:

''SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

''3771. Definitions.
''3772. General authority.
''3773. Requirements.
''3774. Default.
''3775. Audit.''.

SEC. 602. VETERANS HOUSING BENEFIT PROGRAM FUND ACCOUNT CONSOLIDATION.

(a) CONSOLIDATION OF HOUSING LOAN REVOLVING FUNDS.—Subchapter III of chapter 37 is amended—

(1) by striking out sections 3723, 3724, and 3725; and

(2) by inserting after section 3721 the following new section:

''§ 3722. Veterans Housing Benefit Program Fund

''(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereafter in this section referred to as the 'Fund').

''(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

''(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

''(1) Any amount appropriated to the Fund.

''(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

''(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including—

''(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

''(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

''(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

''(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

''(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

''(e) For purposes of this section, the term 'housing loan' shall not include a loan made pursuant to subchapter V of this chapter.''.

(b) TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND.—All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title).

(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title).

(c) REPEAL OF AUTHORITY TO SELL PARTICIPATION CERTIFICATES AND OF OBSOLETE REQUIREMENT TO CREDIT PROCEEDS.—

(1) REPEAL OF AUTHORITY TO SELL PARTICIPATION CERTIFICATES.—Section 3720 is amended by striking out subsection (e).

(2) REPEAL OF OBSOLETE REQUIREMENT TO CREDIT PROCEEDS.—Section 3733 is amended by striking out subsection (e).

(d) SUBMISSION OF SUMMARY FINANCIAL STATEMENT ON HOUSING PROGRAMS.—Section 3734 is amended by adding at the end the following new subsection:

''(c) The information submitted under subsection (a) shall include a statement that summarizes the financial activity of each of the housing programs operated under this chapter. The statement shall be presented in a form that is simple, concise, and readily understandable, and shall not include references to financing accounts, liquidating accounts, or program accounts.''.

(e) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS TO CHAPTER 37.—Chapter 37 is amended as follows:

(A) Section 3703(e)(1) is amended by striking out ''3729(c)(1)'' and inserting in lieu thereof ''3729(c)''.

(B) Section 3711(k) is amended by striking out ''and section 3723 of this title'' both places it appears.

(C) Section 3727(c) is amended by striking out ''funds established pursuant to sections 3723 and 3724 of this title, as applicable'' and inserting in lieu thereof ''fund established pursuant to section 3722 of this title''.

(D) Section 3729 is amended—

(i) in subsection (c)—

(I) by striking out ''(c)(1)'' and inserting in lieu thereof ''(c)''; and

(II) by striking out paragraphs (2) and (3); and

(ii) in subsection (a)(1), by striking out ''(c)(1)'' and inserting in lieu thereof ''(c)''.

(E) Section 3733(a)(6) is amended by striking out ''Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)'' and inserting in lieu thereof ''Veterans Housing Benefit Program Fund established by section 3722(a)''.

(F) Section 3734, as amended by subsection (d), is further amended—

(i) in subsection (a)—

(I) by striking out ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund'' in paragraph (1) and inserting in lieu thereof ''Veterans Housing Benefit Program Fund''; and

(II) by striking out ''funds,'' in paragraph (2) and inserting in lieu thereof ''fund,'';

(ii) in subsection (b), by striking out ''each fund'' in the matter preceding paragraph (1) and inserting in lieu thereof ''the fund''; and

(iii) in subsection (b)(2)—

(I) by striking out subparagraph (B);

(II) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively; and

(III) in subparagraph (B), as so redesignated, by striking out ''subsections (a)(3) and (c)(2) of section 3729'' and inserting in lieu thereof ''section 3729(a)(3)''.

(G) Section 3735(a)(3)(A)(i) is amended by striking out ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund'' and inserting in lieu thereof ''Veterans Housing Benefit Program Fund''.

(2) OTHER CONFORMING AMENDMENT.—Section 2106(e) is amended by striking out '', as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 3723 or 3724 of this title, respectively'' and inserting in lieu thereof ''deposited in the Veterans Housing Benefit Program Fund established by section 3722 of this title''.

(3) TECHNICAL AND CLERICAL AMENDMENTS.—(A) The heading for section 3734 is amended to read as follows:

''§ 3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs''.

(B) The heading for section 3763 is amended to read as follows:

''§ 3763. Native American Veteran Housing Loan Program Account''.

(C) The table of sections at the beginning of chapter 37 is amended—

(i) by inserting after the item relating to section 3721 the following new item:

''3722. Veterans Housing Benefit Program Fund.'';

(ii) by striking out the items relating to sections 3723, 3724, and 3725;

(iii) by striking out the item relating to section 3734 and inserting in lieu thereof the following:

''3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs.'';

and

(iv) by striking out the item relating to section 3763 and inserting in lieu thereof the following:

''3763. Native American Veteran Housing Loan Program Account.''.

(f) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on October 1, 1998.

SEC. 603. EXTENSION OF ELIGIBILITY OF MEMBERS OF SELECTED RESERVE FOR VETERANS HOUSING LOANS.

(a) EXTENSION.—Section 3702(a)(2)(E) is amended by striking out ''October 27, 1999,'' and inserting in lieu thereof ''September 30, 2003,''.

(b) ONE-YEAR EXTENSION OF FEE PROVISION.—Section 3729(a)(4) is amended—

(1) by striking out ''With respect to a loan closed after September 30, 1993, and before October 1, 2002,'' and inserting in lieu thereof ''(A)

With respect to a loan closed during the period specified in subparagraph (B)''; and

(2) by adding at the end the following:

''(B) The specified period for purposes of subparagraph (A) is the period beginning on October 1, 1993, and ending on September 30, 2002, except that in the case of a loan described in subparagraph (D) of paragraph (2), such period ends on September 30, 2003.''.

SEC. 604. APPLICABILITY OF PROCUREMENT LAW TO CERTAIN CONTRACTS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 3720(b) is amended by striking ''; however'' and all that follows and inserting the following: '', except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act.

TITLE VII—CONSTRUCTION AND FACILITIES MATTERS

SEC. 701. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Alterations and demolition at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $23,200,000.

(2) Construction and seismic work at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $50,000,000.

(3) Outpatient clinic expansion at the Department of Veterans Affairs Medical Center, Washington, D.C., in an amount not to exceed $29,700,000.

(4) Construction of a psychogeriatric care building and demolition of a seismically unsafe building at the Department of Veterans Affairs Medical Center, Palo Alto, California, in an amount not to exceed $22,400,000.

(5) Construction of an ambulatory care addition and renovations for ambulatory care at the Department of Veterans Affairs Medical Center, Cleveland (Wade Park), Ohio, in an amount not to exceed $28,300,000, of which $7,500,000 shall be derived from funds appropriated for a fiscal year before fiscal year 1999 that remain available for obligation.

(6) Construction of an ambulatory care addition at the Department of Veterans Affairs Medical Center, Tucson, Arizona, in an amount not to exceed $35,000,000.

(7) Construction of an addition for psychiatric care at the Department of Veterans Affairs Medical Center, Dallas, Texas, in an amount not to exceed $24,200,000.

(8) Outpatient clinic projects at Auburn and Merced, California, as part of the Northern California Healthcare Systems Project, in an amount not to exceed $3,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation.

(9) Renovations to a nursing home care unit at the Department of Veterans Affairs Medical Center, Lebanon, Pennsylvania, in an amount not to exceed $9,500,000.

(10) Construction of a spinal cord injury center at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $46,300,000, of which $20,000,000 shall be derived from funds appropriated for a fiscal year before fiscal year 1999 that remain available for obligation.

(b) CONSTRUCTION OF PARKING FACILITY.—The Secretary may construct a parking structure at the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $13,000,000, of which $11,900,000 shall be derived from funds in the Parking Revolving Fund.

SEC. 702. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for satellite outpatient clinics as follows:

(1) Baton Rouge, Louisiana, in an amount not to exceed $1,800,000.

(2) Daytona Beach, Florida, in an amount not to exceed $2,600,000.

(3) Oakland Park, Florida, in an amount not to exceed $4,100,000.

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1999 and for fiscal year 2000—

(1) for the Construction, Major Projects, account $241,100,000 for the projects authorized in section 701(a); and

(2) for the Medical Care account, $8,500,000 for the leases authorized in section 702.

(b) LIMITATION.—(1) The projects authorized in section 701(a) may only be carried out using—

(A) funds appropriated for fiscal year 1999 or fiscal year 2000 pursuant to the authorization of appropriations in subsection (a);

(B) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation; and

(C) funds appropriated for Construction, Major Projects, for fiscal year 1999 for a category of activity not specific to a project.

(2) The project authorized in section 701(b) may only be carried out using funds appropriated for a fiscal year before fiscal year 1999—

(A) for the Parking Revolving Fund; or

(B) for Construction, Major Projects, for a category of activity not specific to a project.

SEC. 704. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY LEASES FOR PURPOSES OF CONGRESSIONAL AUTHORIZATION.

Section 8104(a)(3)(B) is amended by striking out ''$300,000'' and inserting in lieu thereof ''$600,000''.

SEC. 705. THRESHOLD FOR TREATMENT OF PARKING FACILITY PROJECT AS A MAJOR MEDICAL FACILITY PROJECT.

Section 8109(i)(2) is amended by striking out ''$3,000,000'' and inserting in lieu thereof ''$4,000,000''.

SEC. 706. PARKING FEES.

(a) LIMITATION.—The Secretary of Veterans Affairs may not establish or collect any parking fee at any parking facility associated with the Spark M. Matsunaga Department of Veterans Affairs Medical and Regional Office Center in Honolulu, Hawaii.

(b) REPORT.—Not later than September 15, 1999, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Department's experience in exercising and administering the authority of the Secretary to charge parking fees under subsections (d) and (e) of section 8109 of title 38, United States Code. The report shall include—

(1) the results of a survey which shall describe the parking facilities and number of parking spaces available to employees of the Department at each medical facility of the Department with more than 50 employees;

(2) an analysis of the means by which the Secretary could implement in a cost-effective manner the authority of the Secretary under subsection (e) of section 8109 of title 38, United States Code; and

(3) recommendations for amending section 8109 of such title—

(A) to address the applicability of parking fees to employees of the Secretary who are employed at a regional office which is co-located with a medical facility;

(B) to address the applicability of parking fees to persons using parking facilities at Department of Veterans Affairs medical centers co-located with facilities of the Department of Defense;

(C) to link any schedule of applicable fees to applicable commercial rates; and

(D) to achieve any other purpose.

SEC. 707. MASTER PLAN REGARDING USE OF DEPARTMENT OF VETERANS AFFAIRS LANDS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA.

(a) REPORT.—The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) REPORT ELEMENTS.—The report under subsection (a) shall set forth the following:

(1) The master plan referred to in that subsection, if such a plan currently exists.

(2) A current assessment of the master plan.

(3) Any proposal of the Department for a veterans park on the lands referred to in subsection (a), and an assessment of such proposals.

(4) Any proposal to use a portion of those lands as dedicated green space, and an assessment of such proposals.

(c) ALTERNATIVE REPORT ELEMENT.—If a master plan referred to in subsection (a) does not exist as of the date of the enactment of this Act, the Secretary shall set forth in the report under that subsection, in lieu of the matters specified in paragraphs (1) and (2) of subsection (b), a plan for the development of a master plan for the use of the lands referred to in subsection (a) over the next 25 years and over the next 50 years.

SEC. 708. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, ASPINWALL, PENNSYLVANIA.

The Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, is hereby designated as the ''H. John Heinz III Department of Veterans Affairs Medical Center''. Any reference to that medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the H. John Heinz III Department of Veterans Affairs Medical Center.

SEC. 709. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, GAINESVILLE, FLORIDA.

The Department of Veterans Affairs medical center in Gainesville, Florida, is hereby designated as the ''Malcom Randall Department of Veterans Affairs Medical Center''. Any reference to that medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Malcom Randall Department of Veterans Affairs Medical Center.

SEC. 710. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, COLUMBUS, OHIO.

The Department of Veterans Affairs outpatient clinic in Columbus, Ohio, shall after the date of the enactment of this Act be known and designated as the ''Chalmers P. Wylie Veterans Outpatient Clinic''. Any reference to that outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Chalmers P. Wylie Veterans Outpatient Clinic.

TITLE VIII—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

SEC. 801. SHORT TITLE.

This title may be cited as the ''Department of Veterans Affairs Health Care Personnel Incentive Act of 1998''.

SEC. 802. SCHOLARSHIP PROGRAM FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES RECEIVING EDUCATION OR TRAINING IN THE HEALTH PROFESSIONS.

(a) PROGRAM AUTHORITY.—Chapter 76 is amended by adding at the end the following new subchapter:

''SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

''§ 7671. Authority for program

''As part of the Educational Assistance Program, the Secretary may carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the 'Program'). The purpose of the Program is to assist, through the establishment of an incentive program for individuals employed in the Veterans Health Administration, in meeting the staffing needs of the Veterans Health Administration for health professional occupations for which recruitment or retention of qualified personnel is difficult.

''§ 7672. Eligibility; agreement

''(a) ELIGIBILITY.—To be eligible to participate in the Program, an individual must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c).

''(b) ELIGIBLE DEPARTMENT EMPLOYEES.—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than two years.

''(c) QUALIFYING FIELDS OF EDUCATION OR TRAINING.—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

''(d) AWARD OF SCHOLARSHIPS.—Notwithstanding section 7603(d) of this title, the Secretary, in selecting participants in the Program, may award a scholarship only to applicants who have a record of employment with the Veterans Health Administration which, in the judgment of the Secretary, demonstrates a high likelihood that the applicant will be successful in completing such education or training and in employment in such field.

''(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

''(A) The Secretary's agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

''(B) The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') determined in accordance with regulations prescribed by the Secretary of up to three calendar years for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than three years.

''(C) The participant's agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

''(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

''(3) In the case of a participant who is a part-time student, the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year.

''§ 7673. Scholarship

''(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition (or such portion of the tuition as may be provided under subsection (b)) of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

''(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

''(1) in the case of a participant in the Program who is a full-time student, may not exceed $10,000 for any one year; and

''(2) in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.

''(c) LIMITATION ON YEARS OF PAYMENT.—(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

''(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

''(d) PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

''§ 7674. Obligated service

''(a) IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.

''(b) DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

''(2) As soon as possible after a participant's service commencement date, the Secretary shall—

''(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and

''(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant's course of education or training prepared the participant, assign the participant to such a position.

''(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

''(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of—

''(i) the participant's course completion date; or

''(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

''(C) In the case of a participant not covered by subparagraph (A) or (B), the participant's service commencement date is the later of—

''(i) the participant's course completion date; or

''(ii) the date the participant meets any applicable licensure or certification requirements.

''(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

''(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant's period of obligated service—

''(A) on the date, after the participant's course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

''(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant's course of training prepared the participant.

''(2) A participant in the Program who on the participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant's course of training prepared the participant shall be considered to have begun serving the participant's period of obligated service on such course completion date.

''(d) COURSE COMPLETION DATE DEFINED.—In this section, the term 'course completion date' means the date on which a participant in the Program completes the participant's course of education or training under the Program.

''§ 7675. Breach of agreement: liability

''(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

''(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

''(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

''(B) The participant is dismissed from such educational institution for disciplinary reasons.

''(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

''(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails

to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

''(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.

''(2) Liability under this subsection is in lieu of any service obligation arising under a participant's agreement.

''(c) LIABILITY DURING PERIOD OF OBLIGATED SERVICE.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

''(2) In such formula:

''(A) 'A' is the amount the United States is entitled to recover.

''(B) 'Φ' is the sum of—

''(i) the amounts paid under this subchapter to or on behalf of the participant; and

''(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

''(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

''(D) 's' is the number of months of such period served by the participant in accordance with section 7673 of this title.

''(d) LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a staffing adjustment.

''(e) PERIOD FOR PAYMENT OF DAMAGES.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

''§ 7676. Expiration of program

''The Secretary may not furnish scholarships to individuals who have not commenced participation in the Program before December 31, 2001.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

''SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

''7671. Authority for program.
''7672. Eligibility; agreement.
''7673. Scholarship.
''7674. Obligated service.
''7675. Breach of agreement: liability.
''7676. Expiration of program.''.

SEC. 803. EDUCATION DEBT REDUCTION PROGRAM FOR VETERANS HEALTH ADMINISTRATION HEALTH PROFESSIONALS.

(a) PROGRAM AUTHORITY.—Chapter 76 (as amended by section 802(a)), is further amended by adding after subchapter VI the following new subchapter:

''SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

''§ 7681. Authority for program

''(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Education Debt Reduction Program (hereinafter in this subchapter referred to as the 'Education Debt Reduction Program').

''(2) The purpose of the Education Debt Reduction Program is to assist in the recruitment of qualified health care professionals for positions in the Veterans Health Administration for which recruitment or retention of an adequate supply of qualified personnel is difficult.

''(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program may be in addition to other assistance available to individuals under the Educational Assistance Program.

''§ 7682. Eligibility

''(a) ELIGIBILITY.—An individual is eligible to participate in the Education Debt Reduction Program if the individual—

''(1) is a recently appointed employee in the Veterans Health Administration serving under an appointment under section 7402(b) of this title in a position for which recruitment or retention of a qualified health-care personnel (as determined by the Secretary) is difficult; and

''(2) owes any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for the position referred to in paragraph (1).

''(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

''(1) tuition expenses;

''(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

''(3) reasonable living expenses.

''(c) RECENTLY APPOINTED INDIVIDUALS.—For purposes of subsection (a), an individual shall be considered to be recently appointed to a position if the individual has held that position for less than six months.

''§ 7683. Education debt reduction

''(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

''(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, as determined by the Secretary.

''(2) The Secretary shall make such payments at the end of the period determined by the Secretary under paragraph (1).

''(c) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

''(d) MAXIMUM ANNUAL AMOUNT.—(1) Subject to paragraph (2), the amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program may not exceed—

''(A) $6,000 for the first year of the participant's participation in the Program;

''(B) $8,000 for the second year of the participant's participation in the Program; and

''(C) $10,000 for the third year of the participant's participation in the Program.

''(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principal and interest on loans referred to in subsection (a) that is paid by the individual during such year.

''§ 7684. Expiration of program

''The Secretary may not make education debt reduction payments to individuals who have not commenced participation in the Education Debt Reduction Program before December 31, 2001.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter (as amended by section 802(b)) is further amended by adding at the end the following new items:

''SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

''7681. Authority for program.
''7682. Eligibility.
''7683. Education debt reduction.
''7684. Expiration of program.''.

SEC. 804. REPEAL OF PROHIBITION ON PAYMENT OF TUITION LOANS.

Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4959; 38 U.S.C. 7601 note) is repealed.

SEC. 805. CONFORMING AMENDMENTS.

Chapter 76 is amended as follows:

(1) Section 7601(a) is amended—

(A) by striking out ''and'' at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new paragraphs:

''(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and''; and

''(5) the education debt reduction program provided for in subchapter VII of this chapter.''.

(2) Section 7602 is amended—

(A) in subsection (a)(1)—

(i) by striking out ''subchapter I or II'' and inserting in lieu thereof ''subchapter II, III, or VI'';

(ii) by striking out ''or for which'' and inserting in lieu thereof '', for which''; and

(iii) by inserting before the period at the end the following: '', or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be''; and

(B) in subsection (b), by striking out ''subchapter I or II'' and inserting in lieu thereof ''subchapter II, III, or VI''.

(3) Section 7603 is amended—

(A) in subsection (a)—

(i) by striking out ''To apply to participate in the Educational Assistance Program,'' and inserting in lieu thereof ''(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,''; and

(ii) by adding at the end the following:

''(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.''; and

(B) in subsection (b)(1), by inserting ''(if required)'' before the period at the end.

(4) Section 7604 is amended by striking out ''subchapter II, III, or V'' in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof ''subchapter II, III, V, or VI''.

(5) Section 7632 is amended—

(A) in paragraph (1)—

(i) by striking out ''and the Tuition Reimbursement Program'' and inserting in lieu thereof '', the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program''; and

(ii) by inserting ''(if any)'' after ''number of students'';

(B) in paragraph (2), by inserting ''(if any)'' after ''education institutions''; and

(C) in paragraph (4)—

(i) by striking ''and per participant'' and inserting in lieu thereof '', per participant''; and

(ii) by inserting '', per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program'' before the period at the end.

(6) Section 7636 is amended by striking ''or a stipend'' and inserting ''a stipend, or education debt reduction''.

SEC. 806. COORDINATION WITH APPROPRIATIONS PROVISION.

This title shall be considered to be the authorizing legislation referred to in the third proviso under the heading ''VETERANS HEALTH ADMINISTRATION—MEDICAL CARE'' in title I of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, and the reference in that proviso to the ''Primary Care Providers Incentive Act'' shall be treated as referring to this title.

TITLE IX—MISCELLANEOUS MEDICAL CARE AND MEDICAL ADMINISTRATION PROVISIONS

SEC. 901. EXAMINATIONS AND CARE ASSOCIATED WITH CERTAIN RADIATION TREATMENT.

(a) IN GENERAL.—Chapter 17 is amended by inserting after section 1720D the following new section:

''§ 1720E. Nasopharyngeal radium irradiation

''(a) The Secretary may provide any veteran a medical examination, and hospital care, medical services, and nursing home care, which the Secretary determines is needed for the treatment of any cancer of the head or neck which the Secretary finds may be associated with the veteran's receipt of nasopharyngeal radium irradiation treatments in active military, naval, or air service.

''(b) The Secretary shall provide care and services to a veteran under subsection (a) only on the basis of evidence in the service records of the veteran which document nasopharyngeal radium irradiation treatment in service, except that, notwithstanding the absence of such documentation, the Secretary may provide such care to a veteran who—

''(1) served as an aviator in the active military, naval, or air service before the end of the Korean conflict; or

''(2) underwent submarine training in active naval service before January 1, 1965.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720D the following new item:

''1720E. Nasopharyngeal radium irradiation.''.

SEC. 902. EXTENSION OF AUTHORITY TO COUNSEL AND TREAT VETERANS FOR SEXUAL TRAUMA.

Section 1720D(a) is amended by striking out ''December 31, 1998'' in paragraphs (1) and (3) and inserting in lieu thereof ''December 31, 2001''.

SEC. 903. MANAGEMENT OF SPECIALIZED TREATMENT AND REHABILITATIVE PROGRAMS.

(a) STANDARDS OF JOB PERFORMANCE.—Section 1706(b) is amended—

(1) in paragraph (2), by striking out ''April 1, 1997, April 1, 1998, and April 1, 1999'' and inserting in lieu thereof ''April 1, 1999, April 1, 2000, and April 1, 2001''; and

(2) by adding at the end the following new paragraph:

''(3)(A) To ensure compliance with paragraph (1), the Under Secretary for Health shall prescribe objective standards of job performance for employees in positions described in subparagraph (B) with respect to the job performance of those employees in carrying out the requirements of paragraph (1). Those job performance standards shall include measures of workload, allocation of resources, and quality-of-care indicators.

''(B) Positions described in this subparagraph are positions in the Veterans Health Administration that have responsibility for allocating and managing resources applicable to the requirements of paragraph (1).

''(C) The Under Secretary shall develop the job performance standards under subparagraph (A) in consultation with the Advisory Committee on Prosthetics and Special Disabilities Programs and the Committee on Care of Severely Chronically Mentally Ill Veterans.''.

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The standards of job performance required by paragraph (3) of section 1706(b) of title 38, United States Code, as added by subsection (a), shall be prescribed not later than January 1, 1999.

SEC. 904. AUTHORITY TO USE FOR OPERATING EXPENSES OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES AMOUNTS AVAILABLE BY REASON OF THE LIMITATION ON PENSION FOR VETERANS RECEIVING NURSING HOME CARE.

(a) IN GENERAL.—Section 5503(a)(1)(B) is amended by striking ''Effective through September 30, 1997, any'' in the second sentence and inserting ''Any''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1997.

SEC. 905. REPORT ON NURSE LOCALITY PAY.

(a) REPORT REQUIRED.—(1) Not later than February 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report assessing the system of locality-based pay for nurses established under the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101–366) and now set forth in section 7451 of title 38, United States Code.

(2) The Secretary shall submit with the report under paragraph (1) a copy of the report on the locality pay system prepared by the contractor pursuant to a contract with Systems Flow, Inc., that was entered into on May 22, 1998.

(b) MATTERS TO BE INCLUDED—The report of the Secretary under subsection (a)(1) shall include the following:

(1) An assessment of the effects of the locality-based pay system, including information, shown by facility and grade level, regarding the frequency and percentage increases, if any, in the rate of basic pay under that system of nurses employed in the Veterans Health Administration.

(2) An assessment of the manner in which that system is being applied.

(3) Plans and recommendations of the Secretary for administrative and legislative improvements or revisions to the locality pay system.

(4) An explanation of the reasons for any decision not to adopt any recommendation in the report referred to in subsection (a)(2).

(c) UPDATED REPORT.—Not later than February 1, 2000, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report updating the report submitted under subsection (a)(1).

SEC. 906. ANNUAL REPORT ON PROGRAM AND EXPENDITURES OF DEPARTMENT OF VETERANS AFFAIRS FOR DOMESTIC RESPONSE TO WEAPONS OF MASS DESTRUCTION.

(a) IN GENERAL.—Subchapter II of chapter 5 is amended by adding at the end the following new section:

''§ 530. Annual report on program and expenditures for domestic response to weapons of mass destruction

''(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, to be submitted each year at the time that the President submits the budget for the next fiscal year under section 1105 of title 31, on the activities of the Department relating to preparation for, and participation in, a domestic medical response to an attack involving weapons of mass destruction.

''(b) Each report under subsection (a) shall include the following:

''(1) A statement of the amounts of funds and the level of personnel resources (stated in terms of full-time equivalent employees) expected to be used by the Department during the next fiscal year in preparation for a domestic medical response to an attack involving weapons of mass destruction, including the anticipated source of those funds and any anticipated shortfalls in funds or personnel resources to achieve the tasks assigned the Department by the President in connection with preparation for such a response.

''(2) A detailed statement of the funds expended and personnel resources (stated in terms of full-time equivalent employees) used during the fiscal year preceding the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of those funds and a description of how those funds were expended.

''(3) A detailed statement of the funds expended and expected to be expended, and the personnel resources (stated in terms of full-time equivalent employees) used and expected to be used, during the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of funds expended and a description of how those funds were expended.

''(c) This section shall expire on January 1, 2009.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 529 the following new item:

''530. Annual report on program and expenditures for domestic response to weapons of mass destruction.''.

SEC. 907. INTERIM APPOINTMENT OF UNDER SECRETARY FOR HEALTH.

The President may appoint to the position of Under Secretary for Health of the Department of Veterans Affairs, for service through June 30, 1999, the individual whose appointment to that position under section 305 of title 38, United States Code, expired on September 28, 1998.

TITLE X—OTHER MATTERS

SEC. 1001. REQUIREMENT FOR NAMING OF DEPARTMENT PROPERTY.

(a) IN GENERAL.—(1) Subchapter II of chapter 5, as amended by section 906(a), is further amended by adding at the end the following new section:

''§ 531. Requirement relating to naming of Department property

''Except as expressly provided by law, a facility, structure, or real property of the Department, and a major portion (such as a wing or floor) of any such facility, structure, or real property, may be named only for the geographic area in which the facility, structure, or real property is located.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 530, as added by section 906(b), the following new item:

''531. Requirement relating to naming of Department property.''.

(b) EFFECTIVE DATE.—Section 531 of title 38, United States Code, as added by subsection (a)(1), shall apply with respect to the assignment or designation of the name of a facility, structure, or real property of the Department of Veterans Affairs (or of a major portion thereof) after the date of the enactment of this Act.

SEC. 1002. MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) REQUIREMENT FOR BOARD MEMBERS TO BE ATTORNEYS.—Section 7101A(a) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following new paragraph:

''(2) Each member of the Board shall be a member in good standing of the bar of a State.''.

(b) EMPLOYMENT REVERSION RIGHTS.—Paragraph (2) of section 7101A(d) is amended to read as follows:

''(2)(A) Upon removal from the Board under paragraph (1) of a member of the Board who before appointment to the Board served as an attorney in the civil service, the Secretary shall appoint that member to an attorney position at the Board, if the removed member so requests. If the removed member served in an attorney position at the Board immediately before appointment to the Board, appointment to an attorney position under this paragraph shall be in the grade and step held by the removed member immediately before such appointment to the Board.

''(B) The Secretary is not required to make an appointment to an attorney position under this paragraph if the Secretary determines that the member of the Board removed under paragraph (1) is not qualified for the position.''.

SEC. 1003. FLEXIBILITY IN DOCKETING AND HEARING OF APPEALS BY BOARD OF VETERANS' APPEALS.

(a) FLEXIBILITY IN ORDER OF CONSIDERATION AND DETERMINATION.—Subsection (a) of section 7107 is amended—

(1) in paragraph (1), by inserting ''in paragraphs (2) and (3) and'' after ''Except as provided'';

(2) in paragraph (2), by striking out the second sentence and inserting in lieu thereof the following: ''Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

''(A) if the case involves interpretation of law of general application affecting other claims;

''(B) if the appellant is seriously ill or is under severe financial hardship; or

''(C) for other sufficient cause shown.''; and

(3) by adding at the end the following new paragraph:

''(3) A case referred to in paragraph (1) may be postponed for later consideration and determination if such postponement is necessary to afford the appellant a hearing.''.

(b) SCHEDULING OF FIELD HEARINGS.—Subsection (d) of such section is amended—

(1) in paragraph (2), by striking out ''in the order'' and all that follows through the end and inserting in lieu thereof ''in accordance with the place of the case on the docket under subsection (a) relative to other cases on the docket for which hearings are scheduled to be held within that area.''; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph (3):

''(3) A hearing to be held within an area served by a regional office of the Department may, for cause shown, be advanced on motion for an earlier hearing. Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

''(A) if the case involves interpretation of law of general application affecting other claims;

''(B) if the appellant is seriously ill or is under severe financial hardship; or

''(C) for other sufficient cause shown.''.

SEC. 1004. DISABLED VETERANS OUTREACH PROGRAM SPECIALISTS.

(a) IN GENERAL.—Section 4103A(a)(1) is amended—

(1) in the first sentence, by striking out ''for each 6,900 veterans residing in such State'' through the period and inserting in lieu thereof ''for each 7,400 veterans who are between the ages of 20 and 64 residing in such State.'';

(2) in the third sentence, by striking out ''of the Vietnam era''; and

(3) by striking out the fourth sentence.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to appointments of disabled veterans' outreach program specialists under section 4103A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 1005. TECHNICAL AMENDMENTS.

(a) SECTION REDESIGNATION.—Section 1103, as added by section 8031(a) of the Veterans Reconciliation Act of 1997 (title VIII of Public Law 105–33), is redesignated as section 1104, and the item relating to that section in the table of sections at the beginning of chapter 11 is revised to reflect that redesignation.

(b) OTHER AMENDMENTS TO TITLE 38, U.S.C.—

(1) Section 712(a) is amended by striking out ''the date of the enactment of this section'' and inserting in lieu thereof ''November 2, 1994,''.

(2) Section 1706(b)(1) is amended by striking out ''the date of the enactment of this section'' at the end of the first sentence and inserting in lieu thereof ''October 9, 1996''.

(3) Section 1710(e)(2)(A)(ii) is amended by striking out ''section 2'' and inserting in lieu thereof ''section 3''.

(4) Section 1803(c)(2) is amended by striking out ''who furnishes health care that the Secretary determines authorized'' and inserting in lieu thereof ''furnishing health care services that the Secretary determines are authorized''.

(5) Section 2408(d)(1) is amended—

(A) by striking out ''the date of the enactment of this subsection'' and inserting in lieu thereof ''November 21, 1997,''; and

(B) by striking out ''on the condition described in'' and inserting in lieu thereof ''subject to the condition specified in''.

(6) Section 3018B(a)(2)(E) is amended by striking out ''before the one-year period beginning on the date of enactment of this section,'' and inserting in lieu thereof ''before October 23, 1993,''.

(7) Section 3231(a)(2) is amended by striking out ''subsection (f)'' and inserting in lieu thereof ''subsection (e)''.

(8) Section 3674A(b)(1) is amended by striking out ''after the 18-month period beginning on the date of the enactment of this section''.

(9) Section 3680A(d)(2)(C) is amended by striking out ''section''.

(10) Section 3714(f)(1)(B) is amended by striking out ''more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988'' and inserting in lieu thereof ''after January 1, 1989''.

(11) Section 3727(a) is amended by striking out ''the date of enactment of this section'' and inserting in lieu thereof ''May 7, 1968''.

(12) Section 3730(a) is amended by striking out ''Within'' and all that follows through ''steps to'' and inserting in lieu thereof ''The Secretary shall''.

(13) Section 4102A(e)(1) is amended by striking out the second sentence and inserting in lieu thereof the following: ''A person may not be assigned after October 9, 1996, as such a Regional Administrator unless the person is a veteran.''.

(14) Section 4110A is amended—

(A) by striking out subsection (b); and

(B) by redesignating paragraph (3) of subsection (a) as subsection (b) and striking out ''paragraph (1)'' therein and inserting in lieu thereof ''subsection (a)''.

(15) Section 5303A(d) is amended—

(A) in paragraph (2)(B), by striking out ''on or after the date of the enactment of this subsection'' and inserting in lieu thereof ''after October 13, 1982,''; and

(B) in paragraph (3)(B)(i), by striking out ''on or after the date of the enactment of this subsection,'' and inserting in lieu thereof ''after October 13, 1982,''.

(16) Section 5313(d)(1) is amended by striking out ''the date of the enactment of this section,'' and inserting in lieu thereof ''October 7, 1980,''.

(17) Section 5315(b)(1) is amended by striking out ''the date of the enactment of this section,'' and inserting in lieu thereof ''October 17, 1980,''.

(18) Section 8107(b)(3)(E) is amended by striking out ''section 7305'' and inserting in lieu thereof ''section 7306(f)(1)(A)''.

(c) PUBLIC LAW 104–275.—The Veterans' Benefits Improvements Act of 1996 (Public Law 104–275) is amended as follows:

(1) Section 303(b) (110 Stat. 3332; 38 U.S.C. 4104 note) is amended by striking out ''sections 4104(b)(1) and (c)'' and inserting in lieu thereof ''subsections (b)(1) and (c) of section 4104''.

(2) Section 705(e) (110 Stat. 3350; 38 U.S.C. 545 note) is amended by striking out ''section 5316'' and inserting in lieu thereof ''section 5315''.

TITLE XI—COMPENSATION COST-OF-LIVING ADJUSTMENT

SEC. 1101. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1998, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1998.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1998, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 1102. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1998, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 1101, as increased pursuant to that section.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering this comprehensive bill which would make valuable changes to a wide range of veterans' benefits and services. This legislation represents the culmination of considerable oversight and investigation, hearings and markups in both the House and Senate, and the normal flow of legislation and compromise which is the basis of reaching consensus. The bill does not represent all that I or others involved would have wanted; but it does represent the best that we could do under the rules and budget constraints within which we operate.

Although the bill we consider today addresses many initiatives—from assisting Persian Gulf War veterans to providing educational assistance to health care professionals—I will mention only some of the issues which are of particular interest to me.

GULF WAR VETERANS' HEALTH CARE AND RESEARCH

Mr. President, H.R. 4110, as amended, represents a comprehensive effort to address the needs of our Gulf War veterans. In addition to addressing these veterans' health care needs, this legislation provides for research on the prevention and treatment of post-conflict illnesses.

As Ranking Member of the Committee on Veterans' Affairs, I have witnessed firsthand the struggles of many of our Gulf War veterans, in West Virginia and across the nation. For many, the Persian Gulf War will undoubtedly be remembered as one of our country's most decisive military victories. Despite our fears regarding the possibility of massive troop injuries and losses, the careful planning and strategy of our military leaders paid off. At the end of the ground war, it appeared that there had been relatively few casualties. But as with any war, the human costs of the Gulf War have been high, and we see now that the casualties have continued long after the battle was over.

Many of the men and women who served in the Gulf have suffered chronic, and in some cases, disabling health problems. Their pain has been compounded by their difficulty in getting the government they served to acknowledge their problems and provide the appropriate care and benefits they deserve. This legislation will address some of their concerns. I regret that we can't do more, but we must begin the process where we can. We can't wait the 20 years we waited after the Vietnam war to assess the effects of Agent Orange, or the 40 years we waited after World War II to concede the problems of radiation-exposed veterans. It is time to learn from the lessons of the past and act now.

Section 102 extends VA's authority to provide health care to Gulf War veterans through December 31, 2001. This is a vital provision. After the war, DoD and VA acknowledged that they couldn't diagnose the health problems affecting Persian Gulf War veterans. We did not want to make these veterans wait for the science to catch up before we could provide health care and compensation for their service-related conditions. That is why, back in 1993, we provided Persian Gulf War veterans with priority health care at VA facilities for conditions related to their exposure to battlefield exposures and environmental hazards. Gulf War veterans' access to health care through VA must continue to be ensured, and this agreement does that.

Section 102 also extends VA's current authority to provide treatment for veterans of future conflicts. We are making it possible for future veterans to seek and receive care through VA immediately after leaving the military and up to two years following discharge. By doing this, we may be able to prevent some chronic health conditions by providing early treatment.

The substitute amendment calls upon the Secretary of Veterans Affairs to enter into an agreement with the National Academy of Sciences (NAS) to assist in the development of a plan for the establishment of a national center for the study of war-related illnesses and post-deployment health issues. Such a center would play a critical role in carrying out and promoting research on the diagnosis, treatment, and prevention of such illnesses.

Though not specifically mentioned in the bill, a national center could also serve to promote pre-deployment and post-deployment health policies that are sorely needed to help prevent war-related illnesses. It is important that there be a central body to study and learn from the health lessons of each war, so we are not doomed to continue repeating them.

In addition, this bill directs the Secretary of Veterans Affairs to enter into agreements with the NAS to conduct studies and provide recommendations for research that may be needed to better understand the possible health effects of exposures to toxic agents or environmental or wartime hazards associated with Gulf War service. The NAS will also provide recommendations to VA on the development of continuing medical education programs on the treatment of war-related illnesses and the assessment of new treatments to alleviate the effects of these illnesses.

GULF WAR VETERANS' BENEFITS

Mr. President, last year I introduced S. 1320, which would have established a scientific basis for determining what illnesses are associated with service in the Gulf War and should be compensable by the VA. This year, Senator BYRD, Senator SPECTER, and I built upon that model and introduced S. 2358, which unanimously passed the Senate earlier this month.

S. 1320 and S. 2358 require the Secretary of Veterans Affairs to enter into an agreement with NAS to begin an ongoing scientific review to identify potential exposures that members of the Armed Services experienced in the Gulf, and the potential illnesses or health conditions associated with those exposures. If NAS found evidence of a positive association between these illnesses and exposures, the Secretary would then determine if those illnesses warranted presumptive service connection. This is important because current law requires Gulf War veterans to either experience health effects in service that can be linked to their current illness, or be found to have a chronic ''undiagnosed illnesses'' within 10 years of returning from the Gulf. However, veterans are reporting illnesses now that don't fall into either of these categories. I believe that the NAS reviews will help remedy this ''Catch 22'' situation.

However, I was disappointed that we were unable to move beyond the initial steps contained in H.R. 4110 in negotiations with the House and Senate Veterans' Affairs Committees. H.R. 4110 only provides for VA to contract with NAS to perform the scientific review to identify potential exposures and illnesses associated with those exposures, but excluded the critical directive and guidance to VA to make determinations about compensation and presumption of battlefield exposures. Nonetheless, I felt that it was important that we accomplish what we could in this Congress to begin the process, although I realized this would still leave more for us to accomplish in the 106th Congress.

We would have been left with only this initial step were it not for the senior Senator from West Virginia, Senator BYRD. Senator BYRD successfully negotiated the inclusion of the compensation and presumption provisions of S. 2358 in the Omnibus Appropriations bill. So, I thank him today, and the veterans' service organizations for their work on behalf of America's Gulf War veterans.

And finally, I also want to thank Senators SPECTER and DASCHLE for their tireless efforts. We now have legislation that Gulf War veterans can be proud of as a result of all their work.

EDUCATION AND EMPLOYMENT

Title II contains various changes to VA's education programs that allow more veterans access to these programs and improves their ability to use their Montgomery GI Bill benefits. Among them are provisions for a more accurate way to calculate the number of veteran-students training at schools, by switching from a once-a-year ''snapshot'' to counting enrollment throughout the year; more flexibility in the payment of veterans of their VA work-study program amount; the ability to tap into the current trend of many colleges who grant credit hours for life experience; and allowance for servicemembers to use those life experience credit hours to satisfy the eligibility requirement of completion of a high school diploma or 12 college semester hours before leaving active duty.

In addition, Section 204 changes the pilot license requirement for a medical certificate, as the certificate automatically downgrades after 6 months, but the training period is longer than that. This ensures that veterans will be able to complete their flight training program. Section 205 increases the flexibility of veterans participating in on-job training (OJT) programs to work in fields such as law enforcement, public safety, and other State and local government agencies that because of local restrictions, cannot provide the VA-required wage increase in the final month of OJT. Finally, this compromise agreement requires the VA and the military to work together to better inform servicemembers and veterans of VA educational benefits.

Title II also makes a critical modification to the Uniformed Services Employment and Reemployment Rights Act (USERRA), which protects the rights of persons who serve in the U.S. Armed Forces for a limited period of time to return to their civilian employment. USERRA allows returning servicemembers to bring a cause of action against employers who violate their employment rights.

However, several States have taken the position that the Eleventh Amendment to the Constitution bars USERRA from applying to State agencies as employers. This argument is based on the 1996 Supreme Court decision in *Seminole Tribe of Florida* v. *Florida*, 517 U.S. 44 (1996), which held that Congress was unable to enact a law that allowed individuals to sue states for violating federal statutes under the Eleventh amendment. Several district courts have applied the Seminole decision to dismiss USERRA cases against states as employers.

Title II would substitute the United States for an individual veteran as the plaintiff in cases where the Attorney General believes that a State has not complied with USERRA. This restores the ability of veterans who are employed by a state agency to seek redress for violations of their reemployment rights.

MEDAL OF HONOR SPECIAL PENSION

Section 301 provides for an increase in the monthly pension that recipients of the Medal of Honor are entitled to. The current special pension is $400 per month. This compromise agreement would increase the amount to $600 per month.

The recipients of the Medal of Honor are American heroes, and as such, are asked to participate in patriotic ceremonies all over the country, frequently at their own cost. I am very pleased that this modest increase in their monthly special pension was agreed to in order to help defray some of these costs for these great Americans.

LIFE INSURANCE

Title III of the compromise contains some very important provisions for veterans and their families at an extremely difficult time in their lives.

Section 302 allows VA to provide an accelerated death benefit to SGLI or VGLI-insured persons having a life expectancy of 12 months or less. This provision would allow these terminally ill veterans to elect to receive up to 50 percent of the amount of their insurance policy, providing them financial assistance at a time when they may have overwhelming medical bills or other life expenses, but may be too ill to continue working.

The option to receive an accelerated death benefit is available in many commercial life insurance policies. In 1996, Congress enacted a provision that allowed veterans to convert their SGLI or VGLI policies to commercial policies. This allowed veterans to seek commercial policies with this option. However, being faced with a terminal illness is a very difficult and emotional time, and the Committee correctly determined that it would be better for veterans to be able to cut out the ''middle man'' and elect to receive accelerated benefits from the VA, without having to seek out another insurer. These benefits would not be counted as income for the purposes of determining eligibility for any federal program. I am very gratified that we are able to approve this measure that improves in some small way the quality of life for our terminally ill veterans.

Section 303 requires VA to assess whether the two programs that are designed to help the survivors of service-connected veterans—the insurance program and Dependency and Indemnity Compensation (DIC)—are, in fact, meeting their needs. In 1992, Congress enacted reforms targeted at addressing this question by doubling the amount of life insurance benefits to $200,000, and creating a uniform payment system for DIC that is no longer dependent upon the rank of the veteran in service. Nonetheless, many of the survivors were unable to work because they remained at home to care for a totally disabled, service-connected veteran. That veteran may even have been receiving additional benefits (such as housebound or aid and attendance) above the 100-percent rate, which is currently $1,964 per month. However, after the veteran passes away, the surviving spouse's monthly compensation amount is generally decreased to $850 per month. I have real concerns about whether the current VA programs are adequately providing for these surviving spouses, and I am looking forward to any recommendations that VA may make in this report.

Finally, section 304 provides financial relief to NSLI ''H'' policy holders. The policy holders are WWII veterans, some of whom were disqualified from participating in NSLI's other program (the ''V'' policy). ''V'' policy holders have a cap on their premiums as they get older and are also eligible for dividends if the amount of premiums paid in a year exceeds the amount paid out in policies. That was not the case for ''H'' policy holders. This provision makes ''H'' and ''V'' policies identical, restoring fairness to approximately 1,200 affected veterans.

MEMORIAL AFFAIRS

Mr. President, Title IV addresses an area of growing concern to veterans and their families—memorial affairs. The median age of veterans is over 75 years old. Our veteran population is aging, which unfortunately also means that veterans are dying at an increasing pace. It our honor and duty to provide for their memorialization through the VA's National Cemetery System (NCS).

Section 401 gives VA the authority to place memorial markers in national cemeteries to commemorate a veteran's deceased spouse whose remains are unavailable for interment. VA already has the authority to place a memorial marker for veterans whose remains are unavailable.

Section 402 provides burial and cemetery benefits at VA National Cemeteries for those who served in the United States Merchant Marines between August 16, 1945, and December 31, 1946, and served on a vessel operated by the War Shipping Administration or the Office of Defense Transportation operating overseas.

Section 403 renames the National Cemetery System as the National Cemetery Administration and redesignates the position of the Director of the National Cemetery System to Under Secretary of Veterans Affairs for Memorial Affairs.

Section 404 modifies the State Cemetery Grants Program to authorize VA to pay up to 100 percent of the costs of constructing and equipping state veterans' cemeteries. VA currently has authority to pay up to 50 percent of the cost of land acquisition and construction. However, most states that have participated in the program have used land that is either already state property or is donated. Thus, they have no acquisition costs. This change will allow states with limited funding to participate in the program. The State Cemetery Grants Program is a very important component of VA's Cemetery System, since it increases veterans' access to burial in a veterans cemetery. I am very hopeful that this change will lead to greater participation by states in the program.

COURT OF VETERANS APPEALS

In 1988, Congress created the Court of Veterans Appeals to provide veterans with an opportunity for judicial review of their claims for benefits from the VA. In creating this court, Congress intended to make its benefits and features comparable to that of other courts. The following modifications from Title V are intended to bring this Court in line with other Article I courts: exemption of the judges' retirement fund from sequestration orders and adjustments to their survivor annuity program.

Despite the changes to the survivor program to provide for a cost-of-living allowance, the small size of the Court gives rise to concerns about the fiscal integrity and expense of management of such a program. Therefore, this compromise agreement directs the Court to

provide Congress with a report on the feasibility of merging the Court's retirement and survivor annuity program with another federal court's retirement and survivor annuity program.

This title also provides that when a sitting judge is nominated for an additional term, that judge could remain on the bench for up to one year, pending Senate confirmation. This would prevent any break in service of the judge which might affect veterans' cases pending before the Court.

Finally, this title renames the ''Court of Veterans Appeals'' as the ''United States Court of Appeals for Veterans Claims.'' This is a step forward in erasing the misperception that the Court is part of the Department of Veterans Affairs.

TRANSITIONAL HOUSING PROGRAM

Mr. President, I am very concerned about the plight of homeless veterans. Statistics from the Department of Veterans Affairs show that one in three homeless persons are veterans. There are very few federal programs specifically targeted at homeless veterans to address the specific needs of this population; in particular, there is a shortage of transitional housing for homeless veterans. Transition programs can provide structured long-term housing and assistance in finding and maintaining employment, while requiring sobriety and accountability.

As a way to maximize the limited federal funding available for the homeless veterans transitional housing program, this compromise agreement (Title VI) creates a pilot loan guaranty program that would be administered by VA. The guaranty reduces the risk to lenders, enabling community-based organizations to seek outside capital. The loans can be used for a wide variety of activities, including construction or rehabilitation of housing, refinancing of existing loans, and acquisition of land, furniture, and equipment.

I am very excited about this partnership between the private and public sectors, and between the federal government and community-based organizations. I am hopeful that it will be a successful new way for us to reach out to our Nation's homeless veterans.

EXTENSION OF ELIGIBILITY FOR RESERVIST HOME LOANS

In 1992, Public Law 102–547 provided for a 5-year pilot program to allow eligible members of the Selected Reserves to qualify for VA housing loan benefits. The authority for this program expires on October 27, 1999. With this imminent expiration date and the length of service requirements for eligibility, the military is not able to fully capitalize on this valuable recruiting tool. This agreement extends the eligibility for Reservists and the funding fee that VA is allowed to charge Reservists (currently 2.75 percent) to September 30, 2003.

This program has provided an invaluable recruitment and retention incentive. VA has guaranteed approximately 43,000 loans to date, of which about 67 percent were made to first-time home buyers. The foreclosure rate on these loans, according to VA, is approximately one half that of other VA loan guaranty programs. Given the increased use of Reservists in military deployments, it is only fitting that this program be continued.

I thank Senator AKAKA for his leadership on this issue.

HEALTH CARE FOR VETERANS TREATED WITH NASOPHARYNGEAL RADIUM IRRADIATION

Section 901 of the substitute amendment authorizes the Secretary to provide health care for the treatment of any head or neck cancers which are associated with a veteran's receipt of nasopharyngeal radium irradiation treatments in active military, naval, or air service.

Thousands of military personnel, primarily Navy submariners and Army Air Corps pilots, received nasopharyngeal radium treatments to treat and prevent inner ear problems that developed due to the inadequate pressurization of their respective vessels. The treatment was used originally on children with ear infections, so to adapt the treatment to healthy adults, the Navy and Army conducted experiments on small groups of submariners and pilots. Subsequently, between 8,000 and 12,000 servicemen were irradiated for military purposes. As pressurized planes and submarines became available, the need for these treatments was fortunately obviated by the early 1960's.

Looking back to the early years, we now know just how dangerous these treatments were. The Centers for Disease Control and Prevention estimate that tissues at the exact site of radium placement were exposed to 2000 rem of radiation—400 times greater than the maximum ''safe'' level of radiation exposure established by the Atomic Energy Commission. Parts of the brain received 24 rem—five times the accepted limit of exposure.

The health effects of the treatments that were specifically given to our veterans is unknown. A lack of documentation precludes careful scientific studies. However, one study done on individuals who had received nasopharyngeal radium treatments concluded there was an increased risk of developing head and neck tumors associated with the childhood treatments. We will continue to study the plight of all atomic veterans, but this legislation offers health care to a group of atomic veterans that have up to now been ignored by the VA. It is reasonable, compassionate, and long overdue.

I thank Senator LIEBERMAN for his leadership on this issue and the Department of Veterans Affairs for pursuing this vital initiative.

HEALTH CARE PERSONNEL INCENTIVE ACT OF 1998

I am enormously pleased today that the Veterans Programs Enhancement Act of 1998 includes provisions to create viable scholarship and loan reduction programs in VA. Title VIII is based on legislation, ''The Department of Veterans Affairs Primary Care Providers Incentive Act of 1998,'' which I introduced with the cosponsorship of Senator MIKULSKI.

Like many other health care organizations, VA is committed to increased use of mid-level practitioners. There are generally two good ways to hire and keep highly skilled professionals: offer incentives to current employees to get training in new areas of need by providing scholarships, and recruit new providers by offering assistance in paying off student loans. The bill before us, which includes both a scholarship program and an education debt reduction program, can help.

In VA hospitals and clinics, some of the most difficult positions to fill are those of occupational and physical therapists and physicians assistants. In my home state of West Virginia, for example, there has been a vacancy at one of the VA hospitals for an occupational therapist for over twelve years. Two of the VA hospitals have no physical therapists at all. This is simply unacceptable.

The plain fact is that the VA cannot offer the same starting salaries as those available in private practice. VA's starting salary level for physician assistants, for example, is $15,000 lower than in the private sector. The Education Debt Reduction Program included within the Health Care Personnel Incentive Act gives the VA a financial recruitment tool that will be an enormous help in making the VAMCs more competitive for these much-needed and highly skilled individuals. This program was first designed by Senator MIKULSKI in 1993 in recognition of this very problem. It was needed then; it is still needed now; and I thank Senator MIKULSKI for her leadership.

Recruitment is only half of the story, though. Retention of trained health care personnel, especially in the face of low morale due to budget cuts, is equally important. The scholarship program in this legislation is designed to answer this very need. Eligibility is limited to current VA employees, thus enabling VA to build staff morale. Further, VA gets the workforce they need, composed of motivated and loyal employees.

Several physical therapists who received VA scholarships have written to me. They all have emphasized that their scholarships have enabled them to finish their schooling without incurring additional debt. They all are now working in VA medical centers and bringing their new skills to veterans. This is a win-win situation.

Although this is a time of budget reductions in health care, these programs are a worthwhile investment. They enhance morale of the physician assistants, physical therapists, nurses, and all other health care providers in the short term, while building a workforce that matches VA's needs and improves veterans' health care in the long run.

I thank former Committee minority staff Congressional Science Fellow, Joanne Tornow, for her dedicated and

persistent efforts to move this legislation forward this year.

SPECIALIZED SERVICES

Section 903 continues the current practice of requiring reports from the Secretary of Veterans Affairs regarding specialized treatment and rehabilitative needs of disabled veterans, including veterans with spinal cord dysfunction, blindness, amputation, and mental illness.

Section 903 also requires the Under Secretary for Health to prescribe objective standards of job performance, so as to ensure compliance and place greater emphasis on specialized services. I truly believe that we need to refocus VA on specialized services, and I am pleased that this provision was included.

Officers of the West Virginia Paralyzed Veterans of America have told me about their concerns about the quality of training made available to VA staff serving on the Spinal Cord Injury (SCI) primary care teams in the VA medical centers in my State of West Virginia. Instead of the week of specialized training (followed by hands-on training in an SCI unit) recommended by a VHA Directive, SCI primary care teams in West Virginia receive a 3-day training session only. I also hear disturbing accounts from veterans who were given wheelchairs without being measured to make sure they fit properly; improper cushions placed in wheelchairs causing pressure sores that can last for months; and VA staff who were unfamiliar with such procedures as turning the hospitalized SCI patient or even dressing them. This is not acceptable.

In sum, Mr. President, I cannot guarantee that the necessary specialized care is there in all four of the West Virginia VA medical centers, or any other VA medical center across the country. The legislation before us today will give VA an objective and uniform standard by which to judge, and accurately report on, the quality and scope of specialized services.

COLA

H.R. 4110 also contains one of the most important pieces of legislation that Congress must pass every year—authorization for a cost-of living-allowance (COLA) increase for veterans and survivors compensation programs. The amount of the increase is not specified in this legislation, since the percentage of the increase had not been determined by the time of its passage in the House. Instead, as is customary, the bill authorizes the increase to be equal to the rate of increase in Social Security recipients' benefits amounts. The rate of increase is based on leading economic indicators of inflation. By being tied to the rate of inflation, the COLA ensures that veterans' benefits will keep pace with rising costs and maintain the buying power of compensation for our service-connected disabled veterans and their families.

CONCLUSION

Mr. President, in closing, I want to acknowledge the work of our Committee's Chairman, Senator SPECTER, in developing this comprehensive legislation. Through his efforts, and that of his staff—especially the Committee Staff Director, Charles Battaglia, and the Committee General Counsel, William Tuerk, the Senate Committee has fully met its responsibilities and can be proud of the legislation we consider today.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate agree to the amendments of the House.

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

Mr. AKAKA. Mr. President, I am pleased that the Senate passed H.R. 4110, the Veterans Programs Enhancement Act of 1998. This measure strives to improve the services and benefits provided to our nation's veterans by amending several health, education, housing, and other benefits programs within the Department of Veterans Affairs.

I am especially pleased that the measure contains two provisions which I have been working on. Section 603 of the bill will extend the eligibility of members of the National Guard and Reserve for the Department of Veterans Affairs (VA) Home Loan Guaranty Program. The provision will ensure that the men and women in the Selected Reserve will continue to be eligible for this program through September 30, 2003. Under current law, authorization for the program is scheduled to expire in October 1999.

As the author of legislation in 1992 which extended eligibility for VA-guaranteed home loans to National Guard and Reserve members who complete six years of service, I am pleased with the participation in the program by members of the Selected Reserve. The VA Home Loan Guaranty Program for Guard and Reserve members has provided many individuals and families with a needed opportunity to obtain a mortgage in order to purchase a home, many for the first time. The VA Home Loan Guaranty Program is not only beneficial for members of the Selected Reserve, it also contributes to the financial viability of the VA Home Loan Guaranty Program since the origination fees paid by Reservists more than offset the cost of additional loan guarantees. I am gratified that the home loan program will continue to be made available to members of the National Guard and Reserves who have served our country.

I am also pleased with the inclusion of Section 706 in H.R. 4110. This provision would prohibit the Secretary of Veterans Affairs from establishing or collecting parking fees at the Spark M. Matsunaga Department of Veterans Affairs Medical and Regional Office Center in Honolulu, Hawaii. Under current law, the VA is required to charge its users and employees to park at facilities built with special revolving funds. In Hawaii, the VA parking structure is located on the grounds of the Tripler Army Medical Hospital and will be shared by VA and the Department of Defense. The joint VA/DOD parking facility would result in an administrative nightmare if parking fees were required to be assessed for VA medical employees and visitors but not DOD personnel and visitors. Furthermore, the costs of administering the parking fees far outweigh the revenues that would be generated from the assessment of nominal parking charges. The waiver of parking fees for the VA parking structure at Tripler Army Medical Center will ensure that all visitors and employees enjoy free and equal access to the facilities.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO THE BRUTAL KILLING OF MATTHEW SHEPARD

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 313, submitted earlier by Senators THOMAS and ENZI.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 313) expressing the sense of the Senate with respect to the brutal killing of Mr. Matthew Shepard.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 313) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 313

Whereas Mr. Matthew Shepard, a 21-year old student at the University of Wyoming in Laramie, Wyoming, was physically beaten and tortured, tied to a wooden fence and left for dead; and

Whereas Mr. Matthew Shepard died as a result of his injuries on October 12, 1998, in a Colorado hospital surrounded by his loving family and friends; Now therefore be it

Resolved by the Senate, That it is the Sense of the Senate that it—

(1) condemns the actions which occurred in Laramie, Wyoming, as unacceptable and outrageous;

(2) urges each member of Congress and every citizen of the United States, in his or her own way, through his or her church, synagogue, mosque, workplace, or social organization, to join in denouncing and encouraging others to denounce this outrageous murder of another human being;

(3) pledges to join in efforts to bring an end to such crimes, and to encourage all Americans to dedicate themselves to ending violence in the United States; and

(4) pledges to do everything in its power to fight prejudice and intolerance that leads to the murder of innocent people.

VITIATION OF PASSAGE OF S. 2334

Mr. LOTT. Mr. President, I ask unanimous consent that passage of S. 2334, the foreign operations appropriations bill, be vitiated. I further ask that S. 2334 then be placed back on the calendar.

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

FEDERAL REPORTS ELIMINATION ACT OF 1998

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1364) to eliminate unnecessary and wasteful Federal reports.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1364) entitled ''An Act to eliminate unnecessary and wasteful Federal reports'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Reports Elimination Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF AGRICULTURE

Sec. 101. Reports eliminated.

TITLE II—NOAA

Sec. 201. Reports eliminated.

TITLE III—EDUCATION

Sec. 301. Report eliminated.

TITLE IV—DEPARTMENT OF ENERGY

Sec. 401. Reports eliminated.
Sec. 402. Reports modified.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

Sec. 501. Reports eliminated.

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 601. Reports eliminated.
Sec. 602. Reports modified.

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 701. Reports eliminated.

TITLE VIII—INDIAN AFFAIRS

Sec. 801. Reports eliminated.

TITLE IX—DEPARTMENT OF THE INTERIOR

Sec. 901. Reports eliminated.
Sec. 902. Reports modified.

TITLE X—DEPARTMENT OF JUSTICE

Sec. 1001. Reports eliminated.

TITLE XI—NASA

Sec. 1101. Reports eliminated.

TITLE XII—NUCLEAR REGULATORY COMMISSION

Sec. 1201. Reports eliminated.
Sec. 1202. Reports modified.

TITLE XIII—OMB AND OPM

Sec. 1301. OMB.
Sec. 1302. OPM.

TITLE XIV—TRADE

Sec. 1401. Reports eliminated.

TITLE XV—DEPARTMENT OF TRANSPORTATION

Sec. 1501. Reports eliminated.
Sec. 1502. Reports modified.

TITLE I—DEPARTMENT OF AGRICULTURE

SEC. 101. REPORTS ELIMINATED.

(a) SECONDARY MARKET OPERATIONS.—Section 338(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988(b)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(b) ESTIMATE OF SECOND PRECEDING MONTH'S EXPENDITURES UNDER FOOD STAMP PROGRAM.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking the third and fourth sentences.

(c) ADVISORY COMMITTEES.—Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2284) is repealed.

(d) FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976.—

(1) IN GENERAL.—Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is repealed.

(2) CONFORMING AMENDMENT.—Section 7(a) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3006(a)) is amended by striking ''the provisions of sections 4 and 6'' and inserting ''section 4''.

(e) AGRICULTURAL RESEARCH AT LAND-GRANT COLLEGES.—Section 1445(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(g)) is amended—

(1) by striking ''(1)'' after ''(g)''; and

(2) by striking paragraph (2).

(f) FOREIGN OWNERSHIP OF AGRICULTURAL LAND.—Section 5 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504) is repealed.

(g) INTERNATIONAL SUGAR AGREEMENT, 1977.—Section 6 of Public Law 96–236 (7 U.S.C. 3606) is repealed.

(h) HOUSING PRESERVATION GRANT PROGRAM.—Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended by striking subsection (j).

(i) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

TITLE II—NOAA

SEC. 201. REPORTS ELIMINATED.

(a) REPORT CONCERNING PRICES FOR NAUTICAL AND AERONAUTICAL PRODUCTS.—Section 1307(a)(2)(A) of title 44, United States Code, is amended by striking the last sentence.

(b) REPORT ON NATIONAL SHELLFISH RESEARCH PROGRAM.—Section 308 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (33 U.S.C. 1251 note) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

TITLE III—EDUCATION

SEC. 301. REPORT ELIMINATED.

Section 1411 of the Higher Education Amendments of 1992 is repealed.

TITLE IV—DEPARTMENT OF ENERGY

SEC. 401. REPORTS ELIMINATED.

(a) REPORT ON RESUMPTION OF PLUTONIUM OPERATIONS AT ROCKY FLATS.—Section 3133 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1574) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

(b) ELECTRIC UTILITY PARTICIPATION STUDY.—Section 625 of the Energy Policy Act of 1992 (42 U.S.C. 13295) is repealed.

(c) REPORT ON VIBRATION REDUCTION TECHNOLOGIES.—Section 173(c) of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(d) REPORT ON PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.—Section 132 of the Energy Policy Act of 1992 (42 U.S.C. 6349) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(e) REPORT ON INDUSTRIAL INSULATION AND AUDIT GUIDELINES.—Section 133 of the Energy Policy Act of 1992 (42 U.S.C. 6350) is amended by striking subsection (c).

(f) REPORT ON THE USE OF ENERGY FUTURES FOR FUEL PURCHASES.—Section 3014 of the Energy Policy Act of 1992 (42 U.S.C. 13552) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(g) REPORT ON IMPLEMENTATION OF THE ALASKA FEDERAL CIVILIAN ENERGY EFFICIENCY SWAP ACT OF 1980.—Section 6 of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is repealed.

SEC. 402. REPORTS MODIFIED.

(a) REPORT ON PLAN FOR ELECTRIC MOTOR VEHICLES.—Section 2025(b) of the Energy Policy Act of 1992 (42 U.S.C. 13435(b)) is amended—

(1) in the second sentence of paragraph (1), by striking ''annually'' and inserting ''biennially''; and

(2) in the second sentence of paragraph (4), by striking ''Annual'' and inserting ''Biennial''.

(b) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—Section 112(n)(2)(C) of the Clean Air Act (42 U.S.C. 7412(n)(2)(C)) is amended by striking ''The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study'' and inserting ''On completion of the study, the Secretary shall submit to Congress a report on the results of the study and''.

TITLE V—ENVIRONMENTAL PROTECTION AGENCY

SEC. 501. REPORTS ELIMINATED.

(a) REPORT ON EFFECT OF POLLUTION ON ESTUARIES AND ESTUARINE ZONES.—

(1) IN GENERAL.—Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Section 320(k) of the Federal Water Pollution Control Act (33 U.S.C. 1330(k)) is amended by striking ''section 104(n)(4)'' and inserting ''section 104(n)(3)''.

(b) CLEAN LAKES REPORT.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) REPORT ON NONPOINT SOURCE MANAGEMENT PROGRAMS.—Section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) is amended—

(1) in subsection (i), by striking paragraph (4);

(2) by striking subsection (m); and

(3) by redesignating subsection (n) as subsection (m).

(d) REPORT ON MEASURES TAKEN TO MEET OBJECTIVES OF FEDERAL WATER POLLUTION CONTROL ACT.—

(1) IN GENERAL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended—

(A) by striking subsections (a), (b)(2), (c), (d), and (e);

(B) by striking ''(b)(1)''; and

(C) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended—

(i) in subsection (a)(5), by striking ''in the report required under subsection (a) of section 516'' and inserting ''not later than 90 days after the date of convening of each session of Congress''; and

(ii) in the first sentence of subsection (o)(2), by striking ''in the report required under subsection (a) of section 516'' and inserting ''not later than 90 days after the date of convening of each session of Congress''.

(B) The fourth sentence of section 116(b) of the Federal Water Pollution Control Act (33 U.S.C. 1266(b)) is amended by striking ''section 616(b) of this Act'' and inserting ''section 516''.

(C) The last sentence of section 205(a) of the Federal Water Pollution Control Act (33 U.S.C. 1285(a)) is amended by striking ''section 516(b)'' and inserting ''section 516''.

(D) The second sentence of section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is amended by striking ''shall be included in the report required under section 516(a) of this Act'' and inserting ''shall be reported to Congress not later than 90 days after the date of convening of each session of Congress''.

(e) STUDY OF ENVIRONMENTAL PROBLEMS ASSOCIATED WITH IMPROPER DISPOSAL OR REUSE OF OIL.—Section 9 of the Used Oil Recycling Act of 1980 (Public Law 96–463; 94 Stat. 2058) is repealed.

(f) REPORT ON STATE AND LOCAL TRAINING NEEDS AND OBSTACLES TO EMPLOYMENT IN SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY.—Section 7007 of the Solid Waste Disposal Act (42 U.S.C. 6977) is amended by striking subsection (c).

(g) INTERIM REPORT OF NATIONAL ADVISORY COMMISSION ON RESOURCE CONSERVATION AND RECOVERY.—Section 33(a) of the Solid Waste Disposal Act Amendments of 1980 (Public Law 96–482, 94 Stat. 2356; 42 U.S.C. 6981 note) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(h) FINAL REPORT ON MEDICAL WASTE MANAGEMENT.—

(1) IN GENERAL.—The Solid Waste Disposal Act is amended—

(A) by striking section 11008 (42 U.S.C. 6992g); and

(B) by redesignating sections 11009 through 11012 (42 U.S.C. 6992h through 6992k) as sections 11008 through 11011, respectively.

(2) CONFORMING AMENDMENTS.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 11008; and

(B) by redesignating the items relating to sections 11009 through 11012 as the items relating to sections 11008 through 11011, respectively.

(i) REPORT ON STATUS OF DEMONSTRATION PROGRAM TO TEST METHODS AND TECHNOLOGIES OF REDUCING OR ELIMINATING RADON GAS.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499; 42 U.S.C. 7401 note) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 601. REPORTS ELIMINATED.

(a) AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(A) Section 402(f) (42 U.S.C. 282(f)) is amended—

(i) in paragraph (1), by inserting ''and'' at the end;

(ii) in paragraph (2), by striking ''; and'' and inserting a period; and

(iii) by striking paragraph (3) (relating to annual reports on disease prevention).

(B) Section 408(a) (42 U.S.C. 284c(a)) is amended by striking paragraph (4) (relating to annual reports of the National Institutes of Health on administrative expenses).

(C) Section 430 (42 U.S.C. 285c–4) is amended—

(i) by striking subsection (j) (relating to annual reports of the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board); and

(ii) by redesignating subsection (k) as subsection (j).

(D) Section 439 (42 U.S.C. 285d–4) is amended by striking subsection (c) (relating to annual reports by the Arthritis and Musculoskeletal and Skin Diseases Interagency Coordinating Committee).

(E) Section 451 (42 U.S.C. 285g–3) is amended—

(i) in subsection (a), by striking ''(a) There'' and inserting ''There''; and

(ii) by striking subsection (b) (relating to reports by the Associate Director for Prevention of the National Institute of Child Health and Human Development).

(F) Section 494A (42 U.S.C. 289c–1) is amended—

(i) by striking subsection (b) (relating to reports on health services research); and

(ii) by striking ''(a)'' and all that follows through ''The Secretary'' and inserting ''The Secretary''.

(G) Section 1009 (42 U.S.C. 300a–6a) (relating to plans and reports regarding family planning) is repealed.

(H) Section 2104 (42 U.S.C. 300aa–4) (relating to National Vaccine Program reports) is repealed.

(2) OTHER ACTS.—The following provisions are amended:

(A) Section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (relating to annual reports on the administration of the Radiation Control for Health and Safety program) is repealed.

(B) Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) (relating to the tribal organization demonstration program for direct billing of medicare, medicaid, and other third party payors) is repealed.

(C) Section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) (relating to the report of the Public Health Service) is repealed.

(D) Section 719 of the Indian Health Care Amendments of 1988 (Public Law 100–713; 102 Stat. 4838) (relating to the impact of the final rule relating to eligibility for health care services of the Indian Health Service) is repealed.

(E) The Alzheimer's Disease and Related Dementias Research Act of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212) (relating to the establishment and functions of the Council on Alzheimer's Disease).

(F) The International Health Research Act of 1960 (Public Law 86–610) is amended by striking section 5(h).

(b) SOCIAL SECURITY ACT AND RELATED PROVISIONS.—

(1) Section 8403(b) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3799) is repealed.

(2) Section 4207(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–120) (42 U.S.C. 1395x note) is repealed.

(3) Section 9601(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272; 100 Stat. 222) (42 U.S.C. 1395b note) is repealed.

(4) Section 6003(i) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2158) (42 U.S.C. 1395ww note) is repealed.

(5) Section 6102(d)(4) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2185) (42 U.S.C. 1395w–4 note) is repealed.

(6) Section 1882(l)(6) of the Social Security Act (42 U.S.C. 1395ss(l)(6)) is repealed.

(7) Section 4056(d) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–99) (42 U.S.C. 1395l note) (as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360; 102 Stat. 781)) is repealed.

SEC. 602. REPORTS MODIFIED.

(a) INDIAN HEALTH.—Subsection (e) of section 513 of the Indian Health Care Improvement Act (25 U.S.C. 1660c(e)) is amended by striking ''two years'' and inserting ''5 years''.

(b) SOCIAL SECURITY ACT.—

(1) Section 4801(e)(17)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–218) (42 U.S.C. 1396r note) is amended by striking ''January 1, 1992'' and inserting ''January 1, 1999''.

(2) Section 4360(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–140) (42 U.S.C. 1395b–4) is amended by striking ''Not later than 180 days after the date of the enactment of this section'' and inserting ''Beginning with 1992''.

TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 701. REPORTS ELIMINATED.

(a) FUNDING RELATING TO EVALUATING AND MONITORING PROGRAMS.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

(b) STATE AND LOCAL STRATEGIES FOR REMOVAL OF BARRIERS TO AFFORDABLE HOUSING.—Section 1207 of the Housing and Community Development Act of 1992 (42 U.S.C. 12705a note) is repealed.

(c) COMPREHENSIVE REVIEW AND EVALUATION OF HOMELESS ASSISTANCE PROGRAMS.—Section 1409 of the Housing and Community Development Act of 1992 (42 U.S.C. 11361 note) is amended—

(1) by striking ''(a) IN GENERAL.—''; and

(2) by striking subsection (b).

(d) NEIGHBORHOOD REDEVELOPMENT PROGRAM.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(e) HOMEOWNERSHIP DEMONSTRATION PROGRAM.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3712) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(f) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311 of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) SUMMARY OF ACTIVITIES UNDER NEW TOWN DEMONSTRATION.—Section 1108 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended by striking ''the following'' and all that follows before the period at the end of the section and inserting the following: ''a copy of the new town plan of the governing board, upon the approval of that plan under section 1102(d)''.

TITLE VIII—INDIAN AFFAIRS

SEC. 801. REPORTS ELIMINATED.

(a) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION REPORT.—Section 412 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3211) is repealed.

(b) REPORTS UNDER THE INDIAN FINANCING ACT OF 1974.—Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking subsection (f).

(c) EDUCATION AMENDMENTS OF 1978.—

(1) REPORT ON DEMONSTRATION PROJECTS.—Section 1121(h) of the Education Amendments of 1978 (25 U.S.C. 2001(h)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(2) NATIONAL CRITERIA FOR DORMITORY SITUATIONS.—Section 1122(d) of the Education Amendments of 1978 (25 U.S.C. 2002(d)) is amended by striking paragraph (3).

(3) POSITIONS CONTRACTED UNDER GRANTS OF POST-DIFFERENTIAL AUTHORITY IN THE BIA SCHOOLS.—Section 1132(h)(3)(B) of the Education Amendments of 1978 (25 U.S.C. 2012(h)(3)(B)) is amended by striking clause (iv).

(4) REPORT.—Section 1137 of the Education Amendments of 1978 (25 U.S.C. 2017) is amended—

(A) by striking the section designation and heading and inserting the following:

"SEC. 1137. BIENNIAL REPORT.";

and

(B) in the first sentence of subsection (a)—

(i) by striking ''annual report'' and inserting ''biennial report''; and

(ii) by striking ''during the year'' and inserting ''during the 2-year period covered by the report''.

(5) REGULATIONS.—Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is repealed.

(6) TECHNICAL CORRECTION.—Section 605(b)(2) of the School-to-Work Opportunity Act of 1994 (20 U.S.C. 6235(b)(2)) is amended by striking ''(as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3))'' and inserting ''(as defined in section 1146(3) of the Education Amendments of 1978 (25 U.S.C. 2026(3))''.

(d) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—Section 5206 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505) is amended by striking subsection (g).

(e) PUBLIC LAW 96–135.—Section 2 of Public Law 96–135 (25 U.S.C. 472a) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(3) in subsection (d), as so redesignated—

(A) by striking paragraph (2); and

(B) by striking ''(1) The Office'' and inserting ''The Office''.

(f) NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.—Section 4 of the Native Americans Educational Assistance Act (25 U.S.C. 2001 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (o) as subsections (c) through (n), respectively.

TITLE IX—DEPARTMENT OF THE INTERIOR

SEC. 901. REPORTS ELIMINATED.

(a) PACIFIC YEW ACT.—

(1) REPEAL.—Section 7 of the Pacific Yew Act (16 U.S.C. 4806) is repealed.

(2) CONFORMING AMENDMENT.—Section 8 of such Act (16 U.S.C. 4807) is amended—

(A) by striking ''the relevant congressional committees, as listed in section 7,'' and inserting ''the Committee on Resources and the Committee on Agriculture of the House of Representatives, and the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry of the Senate,''; and

(B) by redesignating such section as section 7.

(b) SIZE AND CONDITION OF THE TULE ELK HERD IN CALIFORNIA.—

(1) REPEAL.—Section 3 of Public Law 94–389 (16 U.S.C. 673f) is repealed.

(2) REDESIGNATION.—Section 4 of Public Law 94–389 (16 U.S.C. 673g) is redesignated as section 3.

(c) WATER QUALITY OF THE SACRAMENTO-SAN JOAQUIN DELTA AND SAN FRANCISCO BAY ESTUARINE SYSTEMS.—Section 4 of Public Law 96–375 (94 Stat. 1506) is amended by striking the second sentence.

(d) COLORADO RIVER FLOODWAY MAPS.—

(1) REPEAL OF REQUIREMENTS.—Section 5(b) of the Colorado River Floodway Protection Act (43 U.S.C. 1600c(b)) is amended—

(A) by striking ''(b)(1)'' and inserting ''(b)'';

(B) by striking paragraphs (2) and (3); and

(C) by redesignating clauses (i) and (ii) as paragraphs (1) and (2), respectively.

(2) CONFORMING AMENDMENT.—Section 5(c)(1) of such Act (43 U.S.C. 1600c(c)(1)) is amended by striking ''the appropriate officers referred to in paragraph (3) of subsection (b),'' and inserting ''appropriate chief executive officers of States, counties, municipalities, water districts, Indian tribes, or equivalent jurisdictions in which the Floodway is located,''.

(e) CERTIFICATION OF ADEQUATE SOIL SURVEY OF LAND CLASSIFICATION.—

(1) 1953 ACT.—The first section of title I of the Interior Department Appropriation Act, 1953, is amended in the matter under the heading ''CONSTRUCTION AND REHABILITATION'' under the heading ''BUREAU OF RECLAMATION'' (66 Stat. 451) by striking '': Provided further, That no part of this or any other appropriation'' and all that follows through ''means of irrigation''.

(2) 1954 ACT.—The first section of title I of the Interior Department Appropriation Act, 1954 (43 U.S.C. 390a; 67 Stat. 266) is amended—

(A) in the matter under the heading ''CONSTRUCTION AND REHABILITATION'' under the heading ''BUREAU OF RECLAMATION'', by striking '': Provided further, That no part of this or any other appropriation'' and all that follows through ''demonstrated in practice''; and

(B) by striking ''Such surveys shall include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.'' (as added by section 10 of the Garrison Diversion Unit Reformulation Act of 1986 (100 Stat. 426)).

(f) CLAIMS SUBMITTED FROM THE TETON DAM FAILURE.—Section 8 of Public Law 94–400 (90 Stat. 1213) is repealed.

(g) STUDY OF THE FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.—

(1) REPEAL.—Section 8 of the Niobrara Scenic River Designation Act of 1991 (Public Law 102–50; 16 U.S.C. 1a–5 note) is repealed.

(2) REDESIGNATION.—Section 9 of such Act (Public Law 102–50; 105 Stat. 258) is redesignated as section 8.

(h) STUDY OF ROUTE 66.—The Route 66 Study Act of 1990 (Public Law 101–400; 104 Stat. 861) is repealed.

(i) REPORT ON ANTHRACITE MINE WATER CONTROL AND MINE SEALING AND FILLING PROGRAM.—The Act entitled ''An Act to provide for the conservation of anthracite coal resources through measures of flood control and anthracite mine drainage, and for other purposes'', approved July 15, 1955, is amended—

(1) by striking section 5 (30 U.S.C. 575); and

(2) by redesignating section 6 (30 U.S.C. 576) as section 5.

(j) AUDIT OF FEDERAL ROYALTY MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Section 302 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752) is amended—

(A) in subsection (a), by striking ''(a)''; and

(B) by striking subsection (b).

(2) CONFORMING AMENDMENT.—Section 304(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1753(c)) is amended by striking ''Except as expressly provided in subsection 302(b), nothing'' and inserting ''Nothing''.

(k) REPORT ON BIDDING OPTIONS FOR OIL AND GAS LEASES ON OUTER CONTINENTAL SHELF LAND.—Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking paragraph (9).

(l) REPORTS ON OUTER CONTINENTAL SHELF LEASING AND PRODUCTION PROGRAM AND PROMOTION OF COMPETITION IN LEASING.—

(1) IN GENERAL.—Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1343) is repealed.

(2) CONFORMING AMENDMENT.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by striking subsection (g).

(m) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF GUAM.—The sixth undesignated paragraph of section 6 of the Organic Act of Guam (48 U.S.C. 1422) is amended by striking the third and fifth sentences.

(n) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF THE VIRGIN ISLANDS.—The fourth undesignated paragraph of section 11 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1591) is amended by striking the third and fifth sentences.

(o) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF AMERICAN SAMOA.—Section 501(a) of Public Law 96–205 (48 U.S.C. 1668(a)) is amended by striking the third and fifth sentences.

(p) AUDIT OF FINANCIAL REPORT OF CHIEF EXECUTIVES OF CERTAIN TERRITORIES.—Section 5 of Public Law 92–257 (48 U.S.C. 1692) is amended by striking the third and fifth sentences.

(q) REPORT ON ACTIVITIES UNDER HELIUM ACT.—Section 16 of the Helium Act (50 U.S.C. 167n) is repealed.

(r) REPORT ON CONTRACT AWARDS MADE TO FACILITATE NATIONAL DEFENSE.—

(1) IN GENERAL.—Public Law 85–804 is amended—

(A) by striking section 4 (50 U.S.C. 1434); and

(B) by redesignating section 5 (50 U.S.C. 1435) as section 4.

(2) CONFORMING AMENDMENT.—Section 502(a)(6) of the National Emergencies Act (50 U.S.C. 1651(a)(6)) is amended by striking ''1431–1435'' and inserting ''1431 et seq.''.

SEC. 902. REPORTS MODIFIED.

(a) RECOMMENDATIONS ON PROSPECTIVE TIMBER SALES.—The first sentence of section 318(h) of Public Law 101–121 (103 Stat. 750) is amended by striking ''a monthly basis'' and inserting ''an annual basis''.

(b) REPORT ON NATIONWIDE GEOLOGIC MAPPING PROGRAM.—Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended—

*(1) in the section heading, by striking ''**ANNUAL**'' and inserting ''**BIENNIAL**''; and*

(2) in the first sentence—

(A) by striking ''each fiscal year, submit an annual report'' and inserting ''each second fiscal year, submit a biennial report''; and

(B) by striking ''preceding fiscal year'' and inserting ''2 preceding fiscal years''.

TITLE X—DEPARTMENT OF JUSTICE

SEC. 1001. REPORTS ELIMINATED.

(a) EMERGENCY LAW ENFORCEMENT ASSISTANCE REPORT.—Section 609U of the Justice Assistance Act of 1984 (42 U.S.C. 10509) is repealed.

(b) DIVERSION CONTROL FEE ACCOUNT REPORT.—Section 111(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (21 U.S.C. 886a) is amended by striking paragraph (5).

(c) DAMAGE SETTLEMENT REPORT.—Section 3724 of title 31, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(d) BANKING LAW OFFENSE REPORT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(e) BANKING LAW OFFENSE REWARDS REPORT.—Section 2571 of the Crime Control Act of 1990 (12 U.S.C. 4211) is repealed.

(f) BANKING INSTITUTIONS SOUNDNESS REPORT.—Section 1542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1831m–1) is amended by striking subsection (e).

TITLE XI—NASA

SEC. 1101. REPORTS ELIMINATED.

(a) ACTIVITIES OF THE NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM.—Section 212 of the National Space Grant College and Fellowship Act (42 U.S.C. 2486j) is repealed.

(b) NOTIFICATION OF PROCUREMENT OF LONG-LEAD MATERIALS FOR SOLID ROCKET MONITORS ON OTHER THAN COOPERATIVE BASIS.—Section 121 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 869) is amended by striking subsection (d).

(c) CAPITAL DEVELOPMENT PLAN FOR SPACE STATION PROGRAM.—Section 107 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 864) is repealed.

(d) NOTICE OF MODIFICATION OF NASA.—

(1) 1985 ACT.—Section 103 of the National Aeronautics and Space Administration Authorization Act, 1985 (98 Stat. 424) is repealed.

(2) 1986 ACT.—Section 103 of the National Aeronautics and Space Administration Authorization Act of 1986 (99 Stat. 1014) is repealed.

(e) EXPENDITURES EXCEEDING ASTRONOMY PROGRAM.—Section 104 of the National Aeronautics and Space Administration Authorization Act, 1984 (97 Stat. 284) is repealed.

(f) PROPOSED DECISION OR POLICY CONCERNING COMMERCIALIZATION.—Section 110 of the National Aeronautics and Space Administration Authorization Act, 1984 (42 U.S.C. 2465) is repealed.

(g) JOINT FORMER SOVIET UNION STUDIES IN BIOMEDICAL RESEARCH.—Section 605 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (42 U.S.C. 2487d) is repealed.

TITLE XII—NUCLEAR REGULATORY COMMISSION

SEC. 1201. REPORTS ELIMINATED.

(a) REPORT OF ADVISORY COMMITTEE ON REACTOR SAFEGUARDS.—Section 29 of the Atomic Energy Act of 1954 (42 U.S.C. 2039) is amended by striking the sixth and seventh sentences.

(b) REPORT ON THE PRICE-ANDERSON ACT.—Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by striking ''(1)''; and

(2) by striking paragraph (2).

SEC. 1202. REPORTS MODIFIED.

Section 1701(b)(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(b)(1)) is amended—

(1) by striking ''The Nuclear'' and inserting ''Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear''; and

(2) by striking ''at least annually''.

TITLE XIII—OMB AND OPM

SEC. 1301. OMB.

(a) FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410; 28 U.S.C. 2461 note) is amended by—

(1) striking section 6; and

(2) redesignating section 7 as section 6.

(b) VOLUNTARY CONTRIBUTIONS BY THE UNITED STATES TO INTERNATIONAL ORGANIZATIONS.—Section 306 of the Foreign Assistance Act of 1961 (22 U.S.C. 2226) is amended by—

(1) striking ''(a) The'' and inserting ''The''; and

(2) striking subsection (b).

(c) PROMPT PAYMENT ACT.—

(1) IN GENERAL.—Section 3906 of title 31, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3901(c) of such title is amended by striking '', except section 3906 of this title,''.

(B) Section 3902(b) of such title is amended by striking ''Except as provided in section 3906 of this title, the'' and inserting ''The''.

(C) The table of sections for chapter 39 of such title is amended by striking the item relating to section 3906.

(d) TITLE 5.—Section 552a(u) of title 5, United States Code, is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraph (7) as paragraph (6), and in that redesignated paragraph by striking ''paragraphs (3)(D) and (6)'' and inserting ''paragraph (3)(D)''.

SEC. 1302. OPM.

(a) ADMINISTRATIVE LAW JUDGES.—Section 1305 of title 5, United States Code, is amended by striking ''require reports by agencies, issue reports, including an annual report to Congress,''.

(b) FEDERAL EMPLOYEE RETIREMENT AND BENEFITS.—

(1) IN GENERAL.—Section 1308 of title 5, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—(A) The table of sections for chapter 13 of title 5, United States Code, is amended by striking the item relating to section 1308.

(B) Chapter 47 of title 5, United States Code, is amended—

(i) by striking section 4705 and redesignating section 4706 as section 4705; and

(ii) in the analysis at the beginning of the chapter by striking the items relating to sections 4705 and 4706 and inserting the following:

''Sec. 4705. Regulations.''.

(c) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(g) of title 5, United States Code, is amended by striking the third sentence.

(d) PLACEMENT OF NON-INDIAN EMPLOYEES.—Section 2(e) of the Act of December 5, 1979 (25 U.S.C. 472a(e); Public Law 96–135; 93 Stat. 1058) is amended—

(1) by striking ''(1)'' after ''(e)''; and

(2) by striking paragraph (2).

TITLE XIV—TRADE

SEC. 1401. REPORTS ELIMINATED.

(a) COFFEE TRADE.—

(1) Section 5 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356n) is repealed.

(2) Section 4 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356m) is repealed.

(b) TRADE ACT OF 1974.—

(1) Section 126 of the Trade Act of 1974 (19 U.S.C. 2136(c)) is amended—

(A) by repealing subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441), and the item relating to that section in the table of contents for that Act, are repealed.

(c) URUGUAY ROUND AGREEMENTS ACT.—Section 424 of the Uruguay Round Agreements Act (19 U.S.C. 3622), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(d) RESTRICTIONS ON EXPENDITURES.—Section 109(c)(3) of Public Law 100–202 (101 Stat. 1329–435; 41 U.S.C. 10b note) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon;

(2) in subparagraph (B) by striking ''; and'' and inserting a period; and

(3) by repealing subparagraph (C).

TITLE XV—DEPARTMENT OF TRANSPORTATION

SEC. 1501. REPORTS ELIMINATED.

(a) REPORTS ABOUT GOVERNMENT PENSION PLANS.—Section 9503 of title 31, United States Code, is amended by striking subsection (a).

(b) TRANSPORTATION AIR QUALITY REPORT.—Section 108(f) of the Clean Air Act (42 U.S.C. 7408(f)) is amended by striking paragraphs (3) and (4).

(c) INDIAN RESERVATION ROADS STUDY.—Section 1042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1993) is repealed.

(d) STUDY OF IMPACT OF CLIMATIC CONDITIONS.—Section 1101–1102 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027) is repealed.

(e) BUMPER STANDARDS.—

(1) IN GENERAL.—Section 32510 of title 49, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 325 of title 49, United States Code, is amended by striking the item relating to section 32510.

(f) HIGHWAY SAFETY.—Section 202 of the Highway Safety Act of 1966 (80 Stat. 736; 23 U.S.C. 401 note) is repealed.

(g) PROJECT REVIEW.—Section 5328(b) of title 49, United States Code, is amended by striking paragraph (3).

(h) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY.—Section 5320 of title 49, United States Code, is amended by striking subsection (k).

SEC. 1502. REPORTS MODIFIED.

(a) COAST GUARD REPORT ON MAJOR ACQUISITION PROJECTS.—Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1551) is amended—

(1) by striking ''quarterly'' and inserting ''biannual''; and

(2) in the last proviso, by striking ''preceding quarter'' and inserting ''preceding 6-month period''.

(b) AVIATION SECURITY REPORT.—Section 44938 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (a)—

(A) by striking ''annual'' and inserting ''biennial''; and

(B) by inserting ''in each year the Administrator submits the biennial report'' before the comma;

(2) in subsection (b) by striking ''annually'' and inserting ''biennially''; and

(3) by striking subsection (c).

(c) REPORT ON PUBLIC TRANSPORTATION.—Section 308(e)(1) of title 49, United States Code, is amended by striking ''submit a report to Congress in January of each even-numbered year'' and inserting ''submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report''.

(d) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—Section 1102(f)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(f)(2)) is amended by striking ''biannual'' and inserting ''biennial''.

Mr. LEVIN. Mr. President, I am pleased that the legislation I introduced along with Senator MCCAIN, the Federal Reports Elimination Act of 1998, S. 1364, was passed by the House earlier this week and is being considered by the Senate under unanimous consent today. The law eliminates 132 outdated reporting requirements imposed on federal agencies by Congress through statute.

The Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight circulated a list of reports that was initially provided by the President in his 1997 budget to all committees having cognizance over the reports recommended for elimination. The committees reviewed the list of reports and identified those reports they deemed essential. The initial list contained over 400 reports; the bill that passed the Senate contained over 200 reports, and the bill as passed by the House contains 132 reports for elimination.

The reports that were in the initial proposal that are not included in the bill as passed by the House have been reviewed by both houses of Congress and considered necessary and useful to the Congress in its oversight responsibilities.

Reports elimination is not a new area of interest in Congress. This is the third piece of legislation we have passed in the last 15 years to eliminate or modify wasteful reporting requirements. Just three years ago, in 1995, Senator MCCAIN and I introduced and got enacted Public Law 104–66, the ''Federal Reports Elimination and Sunset Act of 1995,'' which eliminated or modified 207 reports. Section 3003 of Public Law 104–66, contains a provision for the termination of all annual, semiannual, or other regular periodic reporting requirements, subject to some exceptions, 4 years after the date of enactment. The bill was enacted into law on December 21, 1995, which means that effective December 21, 1999, reports listed in the House No. 103–7, that are not exempt from termination, will be automatically eliminated on December 21st of next year. Committees and Members should be on notice that if there are reporting requirements now in law that they want to continue that are annual, semiannual or periodic, those reporting requirements will have to be reenacted before the 1999 deadline. It will require an affirmative act of legislation to continue those reporting requirements. While it is important to eliminate wasteful and unnecessary reports, it is equally important to continue those reporting requirements that we think are essential to the work of the Congress. I urge my colleagues to be alert to this upcoming deadline.

Mr. President, I thank Senator MCCAIN for his excellent work in helping to get today's legislation passed. I also want to thank Myla Edwards of my office who handled this bill for us as a legislative fellow. Ensuring that this bill covers the intended reporting requirements is tedious work, and Myla demonstrated the care, patience, and commitment necessary to get a bill like this passed.

AMENDMENT NO. 3836

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur with the amendment of the House, with a further amendment by Senator MCCAIN, which is at the desk.

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

The text of the amendment is as follows:

In section 1501, strike subsections (f) through (h).

AMENDING TITLE 28, U.S. CODE, WITH RESPECT TO THE ENFORCEMENT OF CHILD CUSTODY AND VISITATION ORDERS.

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 4164, and that the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4164) to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3837

(Purpose: To propose a substitute)

Mr. LOTT. Senator HATCH has a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for Mr. HATCH and Mr. BIDEN, proposes an amendment numbered 3837.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CHILD CUSTODY.

(a) SECTION 1738A(a).—Section 1738A(a) of title 28, United States Code, is amended by striking ''subsection (f) of this section, any child custody determination'' and inserting ''subsections (f), (g), and (h) of this section, any custody determination or visitation determination''.

(b) SECTION 1738A(b)(2).—Section 1738A(b)(2) of title 28, United States Code, is amended by inserting ''or grandparent'' after ''parent''.

(c) SECTION 1738A(b)(3).—Section 1738A(b)(3) of title 28, United States Code, is amended by striking ''or visitation'' after ''for the custody''.

(d) SECTION 1738A(b)(5).—Section 1738A(b)(5) of title 28, United States Code, is amended by striking ''custody determination'' each place it occurs and inserting ''custody or visitation determination''.

(e) SECTION 1738A(b)(9).—Section 1738A(b) of title 28, United States Code, is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding after paragraph (8) the following:

''(9) 'visitation determination' means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.''.

(f) SECTION 1738A(c).—Section 1738A(c) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(g) SECTION 1738A(c)(2)(D).—Section 1738A(c)(2)(D) of title 28, United States Code, is amended by adding ''or visitation'' after ''determine the custody''.

(h) SECTION 1738A(d).—Section 1738A(d) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(i) SECTION 1738A(e).—Section 1738A(e) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(j) SECTION 1738A(g).—Section 1738A(g) of title 28, United States Code, is amended by striking ''custody determination'' and inserting ''custody or visitation determination''.

(k) SECTION 1738A(h).—Section 1738A of title 28, United States Code, is amended by adding at the end the following:

''(h) A court of a State may not modify a visitation determination made by a court of another State unless the court of the other State no longer has jurisdiction to modify such determination or has declined to exercise jurisdiction to modify such determination.''.

Mr. BIDEN. Mr. President, I am pleased that the Senate today is passing the Hatch-Biden-Lautenberg substitute amendment to H.R. 4164, and I am hopeful that the other body will take up and pass the measure before Congress adjourns for the year.

What this legislation does is simple. Under current federal law, states must give full faith and credit to the child custody orders of another state. A custody order is defined as including a visitation order. However, as evidence from around the country has shown, state courts often do not automatically recognize visitation orders, particularly when it is a visitation order for someone other than the child's parent, such as a grandparent. State courts are supposed to honor such orders, but it is often an arduous process getting them to do so.

This legislation simply clarifies that the full faith and credit law includes visitation orders. We want it to be absolutely clear to state courts that a state visitation order entered consistently with the provisions of the federal full faith and credit statute must be given full faith and credit by all other states. In a narrow legal sense, it does nothing different than current federal law. But, by making that law more explicit, it hopefully will eliminate the hassles, obstacles, and delays that too often confront those who have valid visitation orders and are asking only that federal law be followed.

Mr. President, the author of this idea was Representative ROB ANDREWS of New Jersey, who deserves credit for bringing this issue to our attention. From the day in 1997 when he introduced his bill on visitation orders, he has been tireless in pushing for its passage. I commend him and congratulate him.

Finally, I want to thank Senator HATCH for his willingness to move this bill in the final days of the session. There is a lot of pressing work to be done, and this issue could have got lost in the final crunch. But, the chairman and his staff were very gracious in working with me to pass this bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3837) was agreed to.

The bill (H.R. 4164), as amended, was considered read the third time, and passed.

TECHNICAL AMENDMENTS TO SECTION 10, TITLE 9, OF THE UNITED STATES CODE

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2440, and the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2440) to make technical amendments to Section 10, Title 9, of the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3838

(Purpose: To authorize the National Center for Missing and Exploited children, and for other purposes)

Mr. LOTT. Mr. President, Senators HATCH and LEAHY have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for Mr. HATCH and Mr. LEAHY, proposes an amendment numbered 3838.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) FINDINGS.—Section 402 of the Missing Children's Assistance Act (42 U.S.C. 5771) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) for 14 years, the National Center for Missing and Exploited Children has—

''(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

''(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization;

''(10) Congress has given the Center, which is a private non-profit corporation, access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System;

''(11) since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming 'the 911 for the Internet';

''(12) in light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ('CA') flag to provide the Center immediate notification in the most serious cases, resulting in 642 'CA' notifications to the Center and helping the Center to have its highest recovery rate in history;

''(13) the Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly;

''(14) from its inception in 1984 through March 31, 1998, the Center has—

''(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

''(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

''(C) disseminated 15,491,344 free publications to citizens and professionals; and

''(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children;

''(15) the demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 'hits' every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children;

''(16) in 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center;

''(17) the programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent;

''(18) the Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States;

''(19) the Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children;

''(20) the Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy; and

''(21) the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.''.

(b) DEFINITIONS.—Section 403 of the Missing Children's Assistance Act (42 U.S.C. 5772) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the term 'Center' means the National Center for Missing and Exploited Children.''.

(c) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—Section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking subsection (b) and inserting the following:

''(b) ANNUAL GRANT TO NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—

''(1) IN GENERAL.—The Administrator shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

''(A)(i) operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

''(ii) coordinate the operation of such telephone line with the operation of the national communications system referred to in part C of the Runaway and Homeless Youth Act (42 U.S.C. 5714–11);

''(B) operate the official national resource center and information clearinghouse for missing and exploited children;

''(C) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

''(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

''(ii) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

''(D) coordinate public and private programs that locate, recover, or reunite missing children with their families;

''(E) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

''(F) provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

''(G) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection, $8,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

''(c) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

''(1) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnapings, and the number of children who are recovered each year; and

''(2) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the

lawful use of school records and birth certificates to identify and locate missing children.''.

(d) NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—Section 405(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended by inserting ''the National Center for Missing and Exploited Children and with'' before ''public agencies'',

(e) Authorization of Appropriations.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by striking ''1997 through 2001'' and inserting ''1999 through 2003''.

(f) REPEAL OF OBSOLETE REPORTING REQUIREMENTS.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to this bill be printed in the RECORD.

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

The amendment (No. 3838) was agreed to.

The bill (H.R. 2440), as amended, was considered read the third time, and passed.

FARMERS' COOPERATIVE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 291, H.R. 2513.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2513) to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3839

Mr. LOTT. Mr. President, I understand Senator MOYNIHAN has a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for Mr. MOYNIHAN, proposes an amendment numbered 3839.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EXEMPTION FROM FEDERAL TAXATION OF REWARD PAID IN UNABOMBER CASE IF USED TO COMPENSATE VICTIMS AND THEIR FAMILIES OR TO PAY CERTAIN ATTORNEYS' FEES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, if the requirements of subsection (b) are met with respect to the amounts received by David R. Kaczynski of Schenectady, New York, and his wife, Linda E. Patrik, from the United States as a reward for information leading to the arrest of Theodore J. Kaczynski in the ''Unabomber'' case, then—

(1) their gross income shall not include (and no deduction shall be allowed to them with respect to) such amounts; and

(2) any payment by them to victims and their families in such case shall not be treated as a gift for purposes of subtitle B of such Code and shall not be included in gross income of the recipients.

(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if all of the amounts described in subsection (a) are used only for the following purposes:

(1) Payment by Mr. David R. Kaczynski and Ms. Linda E. Patrik before September 15, 1998, to their attorneys for attorneys' fees incurred by them in connection with the ''Unabomber'' case.

(2) Payment by Mr. David R. Kaczynski and Ms. Linda E. Patrik of State and local taxes on such amounts.

(3) Payment of all remaining amounts by Mr. David R. Kaczynski and Ms. Linda E. Patrik no later than 1 year after the date of the enactment of this Act to the victims and their families in the ''Unabomber'' case or to an irrevocable trust established exclusively for the benefit of such victims and their families.

(c) VICTIMS AND THEIR FAMILIES.—For purposes of this section, the Attorney General of the United States or her delegate shall identify the individuals who are to be treated as victims and their families in the ''Unabomber'' case.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill, as amended, be read three times, and passed, and the motion to reconsider be laid upon the table, that the title be appropriately amended, without any intervening action.

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

The amendment (No. 3839) was agreed to.

The bill (H.R. 2513), as amended, was considered read the third time and passed.

The title was amended so as to read:

Amend the title so as to read: ''A bill to provide tax-free treatment of reward monies devoted to the victims of ''Unabomber'' Theodore Kaczynski.''

Mr. MOYNIHAN. Mr. President, the Senate has done the right thing by agreeing to support David R. Kaczynski in his effort to donate more money to the victims of his brother, ''Unabomber'' Theodore J. Kaczynski. I hope the House of Representatives will now follow suit. This is a rare opportunity for Congress to write a happy ending to a sad story, and we should seize it. The U.S. Congress should not be in the business of discouraging acts of altruism.

In August, Mr. Kaczynski and his wife, Linda E. Patrik, constituents of mine from Schenectady, New York, received a $1 million reward from the FBI for information leading to the 1996 arrest of Theodore Kaczynski. Immediately upon receiving the reward, David Kaczynski pledged that after payment of taxes and attorney's fees, all reward monies would go to the Unabomber's victims and their families. Mr. Kaczynski then contacted my office to ask whether Congress could provide, through legislation, that no tax be imposed so that a greater amount would be passed on to the victims. The uniquely compelling case for this measure was clear from the moment David Kaczynski first contacted me. I agreed and immediately introduced legislation, which was cosponsored by Senators D'AMATO, BAUCUS and BURNS.

Since then, our legislation has received the support of others. Senators ROTH, HATCH, DODD, LAUTENBERG, and MOSELEY-BRAUN have all stated their strong support for the measure, and in the House, Congressman MIKE NCNULTY and AMO HOUGHTON of New York, both Ways and Means Committee members, have introduced companion legislation.

The Kaczynski family's decision was a wonderful, selfless act of humanity. Congress ought to applaud and support this fine example. It is good public policy to encourage reward recipients to donate those proceeds to the victims of violent crime. Without this legislation, federal taxes on the reward would total approximately $355,000. In other words, the Federal Treasury would get that money instead of the victims. It would be unjust for the Federal government to take that money when we have the power to pass it on to the victims.

I thank Senators for supporting this important measure, and I urge its early enactment.

TECHNICAL CORRECTION IN THE ENROLLMENT OF H.R. 3910

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 351, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 351) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of the bill H.R. 3910, a bill to authorize the Automobile National Heritage Area.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 351) was agreed to.

INTERNATIONAL FISHERY TREATY AGREEMENT BETWEEN THE UNITED STATES AND POLAND

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of H.R. 3461, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3461) to approve a governing international fishery treaty agreement between the United States and Poland.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3461) was deemed read a third time, and passed.

CORRECTION IN THE ENROLLMENT OF A BILL

Mr. LOTT. I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 352 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (H. Con. Res. 352) directing the clerk of the House of Representatives to make technical corrections in the enrollment of a bill.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (H. Con. Res. 352) was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. I now ask unanimous consent that the Foreign Relations Committee be discharged and the Senate proceed en bloc to consider the following resolutions: S. Res. 285, S. Res. 293, S. Res. 294, S. Res. 298, S. Con. Res. 122, H. Con. Res. 185, H. Con. Res. 224, H. Con. Res. 254 and H. Con. 277. I ask unanimous consent that the Lugar amendment numbered 3834 to S. Res. 285 and the Abraham amendment No. 3835 to S. Res. 298 be agreed to, the resolutions and preambles be agreed to en bloc. I further ask that the Foreign Relations Committee be discharged from further consideration of H.R. 4083, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measures be printed in the RECORD.

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

ENSURING FREE AND FAIR ELECTIONS IN GABON

The Senate proceeded to consider the resolution (S. Res. 285) expressing the sense of the Senate that all necessary steps should be taken to ensure elections to be held in Gabon in December 1998 are free and fair.

The amendment (No. 3834) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That the Senate—

(1) recognizes and commends those Gabonese who have demonstrated their love for free and fair elections;

(2) commends the Government of Gabon for inviting the International Foundation for Election Systems to perform a pre-election assessment study;

(3) calls on the Government of Gabon to—

(A) take further measures to ensure the organization and administration of a transparent and credible election and to ensure that the national election commission is able to independently carry out its duties; and

(B) further welcome the International Foundation for Election Systems, the National Democratic Institute, the International Republican Institute, and other appropriate national and international nongovernmental organizations to aid the organization of, and to monitor, the December 1998 Presidential election in Gabon, in an effort to assist the government in ensuring that the elections are free and fair;

(4) urges the United States Government to continue to work with the international community, and through appropriate nongovernmental organizations, to help create an environment which guarantees free and fair elections; and

(5) urges the United States Government and the international community to continue to encourage and support the institutionalization of democratic processes and the establishment of conditions for good governance in Gabon.

Strike the preamble and insert the following:

Whereas Gabon is a heavily forested and oil-rich country on the west coast of Central Africa;

Whereas Gabon gained independence from France in 1960;

Whereas Gabon is scheduled to hold national elections in December 1998 for the purpose of electing a President;

Whereas the Government of Gabon was subject to single-party rule until 1990 and only one person has held the office of the President since 1967;

Whereas the International Foundation for Election Systems (IFES) and the African American Institute (AAI) served as observers during the organization of the 1993 Presidential and legislative elections in Gabon and found widespread electoral irregularities;

Whereas the Government of Gabon is a signatory to the Paris Accords of 1994, which was approved by national referendum in July 1995, and was instituted to provide for a state of law guaranteeing basic individual freedoms and the organization of free and fair elections under a new independent national election commission;

Whereas the people of Gabon have demonstrated their support for the democratic process through the formation of numerous political parties since 1990 and their strong participation in prior elections; and

Whereas it is in the interest of the United States to promote political and economic freedom in Africa and throughout the world: Now, therefore, be it

The title was amended so as to read as follows: ''Expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon are free and fair.''.

The preamble, as amended, was agreed to.

The resolution (S. Res. 285), as amended, was agreed to.

EXPRESSING THE SENSE OF THE SENATE FOR THE RETURN OF NADIA DABBAGH

The resolution (S. Res. 293) expressing the sense of the Senate that Nadia Dabbagh should be returned home to her mother, Ms. Maureen Dabbagh was considered and agreed to.

The preamble was agreed to.

The resolution (S. Res. 293), with its preamble, reads as follows:

S. RES. 293

Whereas Mr. Mohamad Hisham Dabbagh and Mrs. Maureen Dabbagh had a daughter, Nadia Dabbagh, in 1990;

Whereas Maureen Dabbagh and Mohamad Hisham Dabbagh were divorced in February 1992;

Whereas in 1993, Nadia was abducted by her father;

Whereas Mohamad Dabbagh later fled the country with Nadia;

Whereas the governments of Syria and the United States have granted child custody to Maureen Dabbagh and both have issued arrest warrants for Mohamad Dabbagh;

Whereas Mohamad Dabbagh has escaped to Saudi Arabia;

Whereas the United States Department of State believes Nadia now resides in Syria;

Whereas Maureen Dabbagh, with the assistance of missing children organizations, has been unable to reunite with her daughter;

Whereas the Department of State, the Federal Bureau of Investigation and Interpol have been unsuccessful in their attempts to bring Nadia back to the United States;

Whereas Maureen Dabbagh has not seen her daughter in over five years; and

Whereas it will take the continued effort and pressure on the part of Syrian officials to bring this case to a successful conclusion: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Governments of the United States and Syria immediately locate Nadia and deliver her safely to her mother.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO MALAYSIA

The resolution (S. Res. 294) expressing the sense of the Senate with respect to developments in Malaysia and the arrest of Dato Seri Anwar Ibrahim was considered and agreed to.

The preamble was agreed to.

The resolution (S. Res. 294), with its preamble, reads as follows:

S. Res. 294

Whereas on September 2, 1998, Malaysia's Prime Minister Mahathir Mohamad dismissed Deputy Prime Minister Dato Seri Anwar Ibrahim;

Whereas, over the past year, Dato Seri Anwar has advocated adopting meaningful economic structural reforms to combat an increasingly deteriorating economy—a view which runs counter to those of Dr. Mahathir;

Whereas, after being dismissed, Dato Seri Anwar began touring the country and publicly criticizing Dr. Mahathir and the policies of the ruling United Malays National Organization Baru (UMNO) party;

Whereas in apparent reaction to this criticism Dato Seri Anwar was arrested on September 20, 1998, and held under the provisions of the Malaysian Internal Security Act (ISA);

Whereas the ISA removes arrested individuals from the protections afforded criminal defendants under Malaysia's constitution and statutes, and consequently Dato Seri Anwar was held in an undisclosed location without any formal charges being lodged against him;

Whereas on September 29, 1998, Dato Seri Anwar was formally charged with nine counts of corruption and sexual misconduct, including four sodomy counts, to which another count was later added:

Whereas the vague nature of the charges, as well as the fact that two of the government's ''witnesses'' have already recanted, could reasonably lead to a conclusion that the charges were manufactured by the government for maximum shock value to discredit Dato Seri Anwar and silence him;

Whereas, when Dato Seri Anwar appeared at his arraignment, he had been beaten by police while in custody; and told the judge that on his first night of detention, while handcuffed and blindfolded, that he was ''boxed very hard on my head and lower jaw and left eye . . . I was then slapped very hard, left and right, until blood came out from my nose and my lips cracked. Because of this I could not walk or see properly'';

Whereas, to substantiate his claims, Dato Seri Anwar showed the court a large bruise on his arm; his swollen black eye was evident to everyone in the courtroom;

Whereas Dr. Mahathir suggested that Dato Seri Anwar inflicted the injuries to himself in order to gain public sympathy;

Whereas since its independence Malaysia has been transformed from a divided multiracial developing nation into a modern, cosmopolitan, economically sophisticated country; and

Whereas the Government's actions in case of Dato Seri Anwar seriously damage the reputation of Malaysia in the eyes of rest of the world: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Malaysian Government should take every step to safeguard the rights of Dato Seri Anwar, ensure that any charges brought against him are not spurious, afford him a fair and open trial, and fully investigate and prosecute those responsible for his mistreatment while in detention; and

(2) all Malaysians should be permitted to express their political views in a peaceful and orderly fashion without fear of arrest or intimidation.

CONDEMNING HUMAN RIGHTS ABUSES IN SIERRA LEONE

The Senate proceeded to consider an amendment to the resolution (S. Res. 298) condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone.

The amendment (No. 3825), in the nature of a substitute, was agreed to, as follows:

Whereas the ousted Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front (RUF) have mounted a campaign of terror, vengeance, and human rights abuses on the civilian population of Sierra Leone;

Whereas the AFRC and RUF violence against civilians continues with more than 500 survivors of atrocities, including gunshot wounds, amputations or rape;

Whereas the International Committee of the Red Cross estimates that only 1 in 4 victims of mutilation actually makes it to medical help;

Whereas the use and recruitment of children as combatants in this conflict has been widespread, including forcible abduction of children by AFRC and RUF rebels;

Whereas UNICEF estimates the number of children forcibly abducted since March 1998 exceeds 3,000;

Whereas the consequences of this campaign have been the flight of more than 250,000 refugees to Guinea and Liberia in the last 6 months and the increase of over 250,000 displaced Sierra Leoneans in camps and towns in the north and east;

Whereas the Governments of Guinea and Liberia are having great difficulty caring for the huge number of refugees, now totaling 600,000 in Guinea and Liberia, and emergency appeals have been issued by the United Nations High Commission for Refugees for $7,300,000 for emergency food, shelter, and sanitation, and medical, educational, psychological, and social services;

Whereas starvation and hunger-related deaths have begun in the north where more than 500 people have died since August 1, 1998, a situation that will only get worse in the next months;

Whereas the humanitarian community is unable, because of continuing security concerns, to deliver food and medicine to the vulnerable groups within the north and east of Sierra Leone;

Whereas the Economic Community of West African States and its peacekeeping arm, the Economic Community of West African States Military Observer Group (ECOMOG), are doing their best, but are still lacking in the logistic support needed to either bring this AFRC and RUF rebel war to a conclusion or force a negotiated settlement;

Whereas arms and weapons continue to be supplied to the AFRC and RUF in direct violation of a United Nations arms embargo;

Whereas the United Nations Under Secretary for Humanitarian Affairs and Emergency Relief Coordinator, Amnesty International, Human Rights Watch, and Refugees International, following visits to Sierra Leone in May and June 1998, condemned, in the strongest terms, the terrible human rights violations done to civilians by the AFRC and RUF rebels; and

Whereas the Special Representative of the United Nations Secretary General for Children and Armed Conflict, following a May 1998 visit to Sierra Leone, called upon the United Nations to make Sierra Leone one of the pilot projects for the rehabilitation of child combatants: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to solving the conflict in Sierra Leone and to bring stability to West Africa in general;

(2) condemns the use by all parties of children as combatants, in particular their forcible abduction by the Armed Forces Revolutionary Council and the Revolutionary United Front, in the conflict in Sierra Leone;

(3) calls on rebel forces to permit the establishment of a secure humanitarian corridor to strategic areas in the north and east of Sierra Leone for the safe delivery of food and medicines by the Government of Sierra Leone and humanitarian agencies already in the country mandated to deliver this aid;

(4) urges the President and the Secretary of State to continue to strictly enforce the United Nations arms embargo on the Armed Forces Revolutionary Council and Revolutionary United Front, including the condemnation of other nations found to be not in compliance with the embargo;

(5) urges the President and the Secretary of State to continue to encourage the contribution of peacekeeping forces by member governments of the Economic Community of West African States to its peacekeeping arm, ECOMOG;

(6) urges the President and the Secretary of State to continue to support the appeal of the United Nations High Commission for Refugees for aid to Sierra Leonean refugees in Guinea, Liberia, and elsewhere, as well as other United Nations agencies and nongovernmental organizations working in Sierra Leone to bring humanitarian relief and peace to the country, including support the United Nations Observer Mission in Sierra Leone;

(7) urges the President and the Secretary of State to take a more comprehensive and focused approach to its relief, recovery and development assistance program in Sierra Leone and to continue to support the Government of Sierra Leone in its Disarmament, Demobilization and Reintegration Program (DDRP) for the country as peace becomes a reality;

(8) urges the President and the Secretary of State to work with the Government of Sierra Leone, with organizations of civil society and with ECOMOG in their efforts to promote and protect human rights, including respect for international humanitarian law;

(9) encourages and supports the United Nations Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunu, to continue efforts to work in Sierra Leone to establish programs designed to rehabilitate child combatants; and

(10) urges all parties to make a concerted effort toward peace and reconciliation in Sierra Leone.

The preamble, as amended, was agreed to.

The resolution (S. Res. 298), as amended, was agreed to.

Mr. ABRAHAM. Mr. President, I rise on the occasion of the Senate's passage, by unanimous consent, of Senate Resolution 298, condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone. I would like to thank my colleagues, particularly the members of the Senate Committee on Foreign Relations, for their support, as well as their quick action on this important legislation. While the resolution speaks for itself in its condemnation of atrocities and insistence that all people abide by international standards of decency, allow me to make just a few points.

On a number of occasions, Mr. President, I have come to the floor to insist that America's status as the world's first free nation, and the continuing leader of the free world, imposes certain responsibilities on us. Most important, our status imposes on us the duty to speak out and where possible act to prevent gross violations of basic human rights. Yet at this very moment there is a crisis in the Sierra Leone of tragic proportions, in which truly unbelievable atrocities are being committed against the civilian population.

Mr. President, we should not permit this tragedy to go unnoticed and we should not permit the war crimes being committed there to be committed with impunity.

I learned about the Sierra Leone crisis from concerned individuals and in my capacity as Chairman of the Immigration Subcommittee, which has oversight of refugee matters. I have spoken to Secretary of State Albright about the Sierra Leone crisis, both because of the situation of current refugees and more broadly because I believe we may have a unique opportunity to help stop the war in Sierra Leone so that more lives are not wasted or shattered and more innocent people not turned into refugees.

Over 500,000 Sierra Leonean refugees currently reside, often in conditions of incredible poverty and deprivation, outside of their country. This number includes something like 350,000 in Guinea and 182,000 in Liberia. The majority of these people have fled Sierra Leone over the past year, with over 250,000 fleeing in the past six months. All are fleeing armed conflict and civil war.

Let me briefly rehearse the events that have produced this tragic situation.

In May of 1997, the democratically elected president of Sierra Leone, President Tejan Kabbah, was overthrown in a military coup, leading to a large outflow of refugees and the evacuation of our own and other foreign embassies in the capital of Freetown. For nine months, the country was ruled by a coalition of rebel groups including the AFRC (Armed Forces Revolutionary Council) and the RUF (Revolutionary United Front). In February 1998, the West African peacekeeping force (ECOMOG, a regional force principally composed of Nigerians) secured control of Freetown and restored Kabbah to power. ECOMOG controls the area surrounding Freetown and is continuing offensives in the interior of the country to try to regain control.

Starting in February and March, rebels (also referred to as the junta) began to retaliate through a campaign of terror directed at the population. This has led to the massive exodus of hundreds of thousands of civilians. The rebel leader, Foday Sankoh, was captured by ECOMOG and is scheduled to be tried for treason in Freetown. Last month, his second in command threatened to wipe out the remaining population if Foday Sankoh is tried. Speaking on BBC radio, he declared that, if Foday Sankoh is tried, the rebels will launch ''operation spare no soul,'' killing ''every living thing, including chickens.''

His past conduct proves that his threats are not empty.

Unbelievable atrocities have been committed against the Sierra Leoneans. Sierra Leonean refugees in Guinea and Liberia also face severe shortages of food and medical care. Reports of violence include killings, amputations of body parts with machetes, rapes (including of young girls), and other torture. On occasion, violence has been targeted at Kabbah supporters. Some amputee victims have had notes pinned to their chests warning Kabbah of further violence, and others are told to tell Kabbah to give them their hands back. In other cases the violence appears indiscriminate and designed to terrorize the population. Villages have been evacuated and destroyed on a large scale as Sierra Leoneans try to flee the rebels.

Mr. President, I introduced this resolution because the violence is not over. Unfortunately, it may have just begun. Fighting continues in Sierra Leone, and the refuges need help. West African states have committed their soldiers to help achieve peace in Sierra Leone. But they need logistical and other support—support we can provide without placing American lives at risk. Our leadership can make a difference here in ending the horrors in Sierra Leone and assisting the victims of war. We should not look the other way.

I thank my colleagues for their support, and I yield the floor.

EXPRESSING THE SENSE OF CONGRESS ON THE 65TH ANNIVERSARY OF THE UKRAINIAN FAMINE OF 1932–1933

The resolution (S. Con. Res. 122) expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people was considered and agreed to.

The preamble was agreed to.

The resolution (S. Con. Res. 122), with its preamble, reads as follows:

S. CON. RES. 122

Whereas this year marks the 65th anniversary of the Ukrainian Famine of 1932–1933 that caused the deaths of at least 7,000,000 Ukrainians and that was covered up and officially denied by the government of the former Soviet Union;

Whereas millions of Ukrainians died, not by natural causes such as pestilence, drought, floods, or a poor harvest, but by policies designed to punish Ukraine for its aversion and opposition to the government of the former Soviet Union's oppression and imperialism, including the forced collectivization of agriculture;

Whereas when Ukraine was famine-stricken, the government of the former Soviet Union exported 1,700,000 tons of grain to the West while offers from international relief organizations to assist the starving population were rejected on the grounds that there was no famine in Ukraine and no need for the assistance;

Whereas the borders of Ukraine were tightly controlled and starving Ukrainians were not allowed to cross into Russian territory in search of bread;

Whereas in his book ''The Harvest of Sorrow'', British historian Robert Conquest explains, ''A quarter of the rural population, men, women, and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors.'';

Whereas the Commission on the Ukraine Famine was established on December 13, 1985, to conduct a study with the goal of expanding the world's knowledge and understanding of the famine and to expose the government of the former Soviet Union for its atrocities in the famine;

Whereas the Commission's report to Congress confirmed that the government of the former Soviet Union consciously employed the brutal policy of forced famine to repress the Ukrainian population and to oppress the Ukrainians' inviolable religious and political rights; and

Whereas the Commission on the Ukraine Famine presented 4 volumes of findings and conclusions, 10 volumes of archival material, and over 200 cassettes of testimony from famine survivors to the newly independent Government of Ukraine in 1993, during the official observances of the 60th anniversary of the Ukrainian famine in Kyiv, Ukraine: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the victims of the government of the former Soviet Union-engineered Ukrainian Famine of 1932–1933 be solemnly remembered on its 65th anniversary;

(2) the Congress condemns the systematic disregard for human life, human rights, human liberty, and self-determination that characterized the repressive policies of the government of the former Soviet Union during the Ukrainian Famine of 1932–1933;

(3) on the 65th anniversary of the Ukrainian Famine of 1932–1933, in contrast to the policies of the government of the former Soviet Union, Ukraine is moving toward democracy, a free-market economy, and full respect for human rights, and it is essential that the United States continue to assist Ukraine as it proceeds down this path; and

(4) any supplemental material that will assist in the dissemination of information about the Ukrainian Famine of 1932–1933, and thereby help to prevent similar future tragedies, be compiled and made available worldwide for the study of the devastation of the famine.

SEC. 2. TRANSMITTAL OF THE RESOLUTION.

The Secretary of the Senate shall—

(1) transmit a copy of this resolution to—

(A) the President;

(B) the Secretary of State; and

(C) the co-chairs of the Congressional Ukrainian Caucus; and

(2) request that the Secretary of State transmit a copy of this resolution to the Government of Ukraine.

EXPRESSING THE SENSE OF THE CONGRESS ON THE 50TH ANNIVERSARY OF THE SIGNING OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The resolution (H. Con. Res. 185) expressing the sense of the Congress on the occasion of the 50th anniversary of the signing of the Universal Declaration of Human Rights and recommitting the United States to the principles expressed in the Universal Declaration was considered and agreed to.

The preamble was agreed to.

URGING INTERNATIONAL COOPERATION IN RECOVERING ABDUCTED CHILDREN

The resolution (H. Con. Res. 224) urging international cooperation in recovering children abducted in the United States and taken to other countries was considered and agreed to.

The preamble was agreed to.

EXTRADITION OF JOANNE CHESIMARD AND OTHERS

The resolution (H. Con. Res. 254) calling on the government of Cuba to extradite to the United States convicted felon Joanne Chesimard and all other individuals who have fled the United States to avoid prosecution or confinement for criminal offenses and who are currently living freely in Cuba was considered and agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF THE CONGRESS CONCERNING THE NEW TRIBES MISSION HOSTAGE CRISIS

The resolution (H. Con. Res. 277) concerning the New Tribes Mission hostage crisis was considered and agreed to.

The preamble was agreed to.

MAKING AVAILABLE ''WINDOW ON AMERICA''

The bill (H.R. 4083) to make available to the Ukrainian Museum and Archives the USIA television program ''Window on America'' was considered read the third time and passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COAST GUARD AUTHORIZATION ACT OF 1998

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2204) entitled ''An Act to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes'', with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coast Guard Authorization Act of 1998''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Sec. 103. LORAN-C.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Severance pay.
Sec. 202. Authority to implement and fund certain awards programs.
Sec. 203. Use of appropriated funds for commercial vehicles at military funerals.
Sec. 204. Authority to reimburse Novato, California, Reuse Commission.
Sec. 205. Law enforcement authority for special agents of the Coast Guard Investigative Service.
Sec. 206. Report on excess Coast Guard property.
Sec. 207. Fees for navigation assistance service.
Sec. 208. Aids to navigation report.

TITLE III—MARINE SAFETY

Sec. 301. Extension of territorial sea for certain laws.
Sec. 302. Penalties for interfering with the safe operation of a vessel.
Sec. 303. Great Lakes Pilotage Advisory Committee.
Sec. 304. Alcohol testing.
Sec. 305. Protect marine casualty investigations from mandatory release.
Sec. 306. Safety management code report and policy.
Sec. 307. Oil and hazardous substance definition and report.
Sec. 308. National Marine Transportation System.
Sec. 309. Availability and use of EPIRBS for recreational vessels.
Sec. 310. Search and rescue helicopter coverage.
Sec. 311. Petroleum transportation.
Sec. 312. Seasonal Coast Guard helicopter air rescue capability.
Sec. 313. Ship reporting systems.

TITLE IV—MISCELLANEOUS

Sec. 401. Vessel identification system amendments.
Sec. 402. Conveyance of Coast Guard Reserve training facility, Jacksonville, Florida.
Sec. 403. Documentation of certain vessels.
Sec. 404. Conveyance of Nahant parcel, Essex County, Massachusetts.
Sec. 405. Unreasonable obstruction to navigation.
Sec. 406. Financial responsibility for oil spill response vessels.
Sec. 407. Conveyance of Coast Guard property to Jacksonville University in Jacksonville, Florida.
Sec. 408. Penalty for violation of International Safety Convention.
Sec. 409. Coast Guard City, USA.
Sec. 410. Conveyance of Communication Station Boston Marshfield Receiver Site, Massachusetts.
Sec. 411. Clarification of liability of persons engaging in oil spill prevention and response activities.
Sec. 412. Vessels not seagoing motor vessels.
Sec. 413. Land conveyance, Coast Guard Station Ocracoke, North Carolina.
Sec. 414. Conveyance of Coast Guard property in Sault Sainte Marie, Michigan.
Sec. 415. Interim authority for dry bulk cargo residue disposal.
Sec. 416. Conveyance of lighthouses.
Sec. 417. Conveyance of Coast Guard LORAN Station Nantucket.
Sec. 418. Conveyance of decommissioned Coast Guard vessels.
Sec. 419. Amendment to conveyance of vessel S/S RED OAK VICTORY.
Sec. 420. Transfer of Ocracoke Light Station to Secretary of the Interior.
Sec. 421. Vessel documentation clarification.
Sec. 422. Dredge clarification.
Sec. 423. Double hull alternative designs study.
Sec. 424. Vessel sharing agreements.
Sec. 425. Reports.
Sec. 426. Report on tonnage calculation methodology.
Sec. 427. Authority to convey National Defense Reserve Fleet Vessels.
Sec. 428. Authority to convey National Defense Reserve Fleet Vessel, JOHN HENRY.
Sec. 429. Applicability of authority to release restrictions and encumbrances.
Sec. 430. Barge APL–60.
Sec. 431. Vessel financing flexibility.
Sec. 432. Hydrographic functions.

TITLE V—ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

Sec. 501. Findings.
Sec. 502. Administrative waiver of coastwise trade laws.
Sec. 503. Revocation.
Sec. 504. Definitions.
Sec. 505. Sunset.

TITLE VI—HARMFUL ALGAL BLOOMS AND HYPOXIA

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Assessments.
Sec. 604. Northern Gulf of Mexico hypoxia.
Sec. 605. Authorization of appropriations.
Sec. 606. Protection of States' rights.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard, as follows:

(1) For the operation and maintenance of the Coast Guard—

(A) for fiscal year 1998, $2,715,400,000; and

(B) for fiscal year 1999, $2,854,700,000; of which $25,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 and of which not less than $408,000,000 shall be available for expenses related to drug interdiction.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—

(A) for fiscal year 1998, $399,850,000, of which $2,000,000 shall be made available for concept evaluation for a replacement vessel for the Coast Guard icebreaker MACKINAW; and

(B) for fiscal year 1999, $510,300,000, of which $5,300,000 shall be made available to complete the conceptual design for a replacement vessel for the Coast Guard icebreaker MACKINAW;

to remain available until expended, of which $20,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 and of which not less than $62,000,000 shall be available for expenses related to drug interdiction.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—

(A) for fiscal year 1998, $19,000,000; and

(B) for fiscal year 1999, $18,300,000;

to remain available until expended, of which $3,500,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code—

(A) for fiscal year 1998, $653,196,000; and

(B) for fiscal year 1999, $691,493,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) for fiscal year 1998, $17,000,000; and

(B) for fiscal year 1999, $26,000,000,

to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $26,000,000 for each of fiscal years 1998 and 1999, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 37,944 as of September 30, 1998; and

(2) 38,038 as of September 30, 1999.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) for fiscal year 1998, 1,424 student years; and

(B) for fiscal year 1999, 1,424 student years.

(2) For flight training—

(A) for fiscal year 1998, 98 student years; and

(B) for fiscal year 1999, 98 student years.

(3) For professional training in military and civilian institutions—

(A) for fiscal year 1998, 283 student years; and

(B) for fiscal year 1999, 283 student years.

(4) For officer acquisition—

(A) for fiscal year 1998, 814 student years; and

(B) for fiscal year 1999, 810 student years.

SEC. 103. LORAN-C.

(a) FISCAL YEAR 1999.—There are authorized to be appropriated to the Department of Transportation, in addition to the funds authorized for the Coast Guard for operation of the LORAN-C System, for capital expenses related to LORAN-C navigation infrastructure, $10,000,000 for fiscal year 1999. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

(b) COST-SHARING PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for cost-sharing arrangements among Federal agencies for such capital and operating expenses related to LORAN-C navigation infrastructure, including such expenses of the Coast Guard and the Federal Aviation Administration.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. SEVERANCE PAY.

(a) WARRANT OFFICERS.—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) SEPARATED OFFICERS.—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting '', unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.''.

(c) EXCEPTION.—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting '', unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.''.

SEC. 202. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

Section 93 of title 14, United States Code, is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(w) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).''.

SEC. 203. USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(x) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.''.

SEC. 204. AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.

The Commandant of the United States Coast Guard may use up to $25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority's reuse plan as a result of the Coast Guard's request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

SEC. 205. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.

(a) AUTHORITY.—Section 95 of title 14, United States Code, is amended to read as follows:

''§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority

''(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

''(A) To carry firearms.

''(B) To execute and serve any warrant or other process issued under the authority of the United States.

''(C) To make arrests without warrant for—

''(i) any offense against the United States committed in the agent's presence; or

''(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

''(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

''(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

''(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of Transportation or the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

''95. Special agents of the Coast Guard Investigative Service law enforcement authority.''.

SEC. 206. REPORT ON EXCESS COAST GUARD PROPERTY.

Not later than 9 months after the date of enactment of this Act, the Administrator of the General Services Administration and the Commandant of the Coast Guard shall submit to the Congress a report on the current procedures used to dispose of excess Coast Guard property and provide recommendations to improve such procedures. The recommendations shall take into consideration measures that would—

(1) improve the efficiency of such procedures;

(2) improve notification of excess property decisions to and enhance the participation in the property disposal decisionmaking process of the States, local communities, and appropriate nonprofit organizations;

(3) facilitate the expeditious transfer of excess property for recreation, historic preservation, education, transportation, or other uses that benefit the general public; and

(4) ensure that the interests of Federal taxpayers are protected.

SEC. 207. FEES FOR NAVIGATION ASSISTANCE SERVICE.

Section 2110 of title 46, United States Code, is amended by adding at the end thereof the following:

''(k) The Secretary may not plan, implement or finalize any regulation that would promulgate any new maritime user fee which was not implemented and collected prior to January 1, 1998, including a fee or charge for any domestic icebreaking service or any other navigational assistance service. This subsection expires on September 30, 2001.''.

SEC. 208. AIDS TO NAVIGATION REPORT.

Not later than 18 months after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report on the use of the Coast Guard's aids to navigation system. The report shall include an analysis of the respective use of the aids to navigation system by commercial interests, members of the general public for personal recreation, Federal and State government for public safety, defense, and other similar purposes. To the extent practicable within the time allowed, the report shall include information regarding degree of use of the various portions of the system.

TITLE III—MARINE SAFETY

SEC. 301. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

''(5) 'Navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

''(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(2) Section 2301 of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)'' after ''of the United States''.

(3) Section 4102(e) of that title is amended by striking ''operating on the high seas'' and inserting ''owned in the United States and operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(4) Section 4301(a) of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)'' after ''of the United States''.

(5) Section 4502(a)(7) of that title is amended by striking ''on the high seas'' and inserting ''beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States''.

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

''(2) is operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

(7) Section 8502(a)(3) of that title is amended by striking ''not on the high seas'' and inserting: ''not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

''(2) operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

SEC. 302. PENALTIES FOR INTERFERING WITH THE SAFE OPERATION OF A VESSEL.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 2302. Penalties for negligent operations and interfering with safe operation'';

and

(2) in subsection (a) by striking ''that endangers'' and inserting ''or interfering with the safe operation of a vessel, so as to endanger''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 46, United States Code, is amended by striking the item relating to section 2302 and inserting the following:

''2302. Penalties for negligent operations and interfering with safe operation.''.

SEC. 303. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.

Section 9307 of title 46, United States Code, is amended to read as follows:

''§ 9307. Great Lakes Pilotage Advisory Committee

''(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

''(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

''(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

''(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

''(4) shall meet at the call of—

''(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

''(B) a majority of the Committee.

''(b)(1) The Committee shall consist of 7 members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

''(2) The membership of the Committee shall include—

''(A) 3 members who are practicing Great Lakes pilots and who reflect a regional balance;

''(B) 1 member representing the interests of vessel operators that contract for Great Lakes pilotage services;

''(C) 1 member representing the interests of Great Lakes ports;

''(D) 1 member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

''(E) 1 member representing the interests of the general public, who is an independent expert on the Great Lakes maritime industry.

''(c)(1) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

''(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The representatives shall, as appropriate, report to and advise the Committee on matters relating to Great Lakes pilotage. The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

''(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

''(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

''(e)(1) A member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

''(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5 including travel time; and

''(B) travel or transportation expenses under section 5703 of title 5.

''(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

''(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2003.

''(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.''.

SEC. 304. ALCOHOL TESTING.

(a) ADMINSTRATIVE PROCEDURE.—Section 7702 of title 46, United States Code, is amended by striking the second sentence of subsection (c)(2) and inserting the following: ''The testing may include preemployment (with respect to dangerous drugs only), periodic, random, and reasonable cause testing, and shall include post-accident testing.''.

(b) INCREASE IN CIVIL PENALTY.—Section 2115 of title 46, United States Code, is amended by striking ''$1,000'' and inserting ''$5,000''.

(c) INCREASE IN NEGLIGENCE PENALTY.—Section 2302(c)(1) of title 46, United States Code, is amended by striking ''$1,000 for a first violation and not more than $5,000 for a subsequent violation; or'' and inserting ''$5,000; or''.

(d) POST SERIOUS MARINE CASUALTY TESTING.—

(1) Chapter 23 of title 46, United States Code, is amended by inserting after section 2303 the following:

''§2303a. Post serious marine casualty alcohol testing

''(a) The Secretary shall establish procedures to ensure that after a serious marine casualty occurs, alcohol testing of crew members or other persons responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such casualty is conducted no later than 2 hours after the casualty occurs, unless such testing cannot be completed within that time due to safety concerns directly related to the casualty.

''(b) The procedures in subsection (a) shall require that if alcohol testing cannot be completed within 2 hours of the occurrence of the casualty, such testing shall be conducted as soon thereafter as the safety concerns in subsection (a) have been adequately addressed to permit such testing, except that such testing may not be required more than 8 hours after the casualty occurs.''.

(2) The table of sections at the beginning of chapter 23 of title 46, United States Code, is amended by inserting after the item related to section 2303 the following:

''2303a. Post serious marine casualty alcohol testing.''.

SEC. 305. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.

Section 6305(b) of title 46, United States Code, is amended by striking all after ''public'' and inserting a period and ''This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.''.

SEC. 306. SAFETY MANAGEMENT CODE REPORT AND POLICY.

(a) REPORT ON IMPLEMENTATION AND ENFORCEMENT OF THE INTERNATIONAL SAFETY MANAGEMENT CODE.—

(1) The Secretary of Transportation (in this section referred to as the ''Secretary'') shall conduct a study—

(A) reporting on the status of implementation of the International Safety Management Code (hereinafter referred to in this section as 'Code');

(B) detailing enforcement actions involving the Code, including the role documents and reports produced pursuant to the Code play in such enforcement actions;

(C) evaluating the effects the Code has had on marine safety and environmental protection, and identifying actions to further promote marine safety and environmental protection through the Code;

(D) identifying actions to achieve full compliance with and effective implementation of the Code; and

(E) evaluating the effectiveness of internal reporting and auditing under the Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing.

These recommended actions may include proposed limits on the use in legal proceedings of documents produced pursuant to the Code.

(2) The Secretary shall provide opportunity for the public to participate in and comment on the study conducted under paragraph (1).

(3) Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1).

(b) POLICY.—

(1) Not later than 9 months after submission of the report in subsection (a)(3), the Secretary shall develop a policy to achieve full compliance with and effective implementation of the Code. The policy may include—

(A) enforcement penalty reductions and waivers, limits on the use in legal proceedings of documents produced pursuant to the Code, or other

incentives to ensure accurate and candid reporting and auditing;

(B) any other measures to achieve full compliance with and effective implementation of the Code; and

(C) if appropriate, recommendations to Congress for any legislation necessary to implement one or more elements of the policy.

(2) The Secretary shall provide opportunity for the public to participate in the development of the policy in paragraph (1).

(3) Upon completion of the policy in paragraph (1), the Secretary shall publish the policy in the Federal Register and provide opportunity for public comment on the policy.

SEC. 307. OIL AND HAZARDOUS SUBSTANCE DEFINITION AND REPORT.

(a) DEFINITION OF OIL.—Section 1001(23) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(23)) is amended to read as follows:

''(23) 'oil' means oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include any substance which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act;''.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Congress on the status of the joint evaluation by the Coast Guard and the Environmental Protection Agency of the substances to be classified as oils under the Federal Water Pollution Control Act and title I of the Oil Pollution Act of 1990, including opportunities provided for public comment on the evaluation.

SEC. 308. NATIONAL MARINE TRANSPORTATION SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation, through the Coast Guard and the Maritime Administration, shall, in consultation with the National Ocean Service of the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other interested Federal agencies and departments, establish a task force to assess the adequacy of the nation's marine transportation system (including ports, waterways, harbor approach channels, and their intermodal connections) to operate in a safe, efficient, secure, and environmentally sound manner.

(b) TASK FORCE.—

(1) The task force shall be chaired by the Secretary of Transportation or his designee and may be comprised of the representatives of interested Federal agencies and departments and such other nonfederal entities as the Secretary deems appropriate.

(2) The provisions of the Federal Advisory Committee Act shall not apply to the task force.

(c) ASSESSMENT.—

(1) In carrying out the assessment under this section, the task force shall examine critical issues and develop strategies, recommendations, and a plan for action. Pursuant to such examination and development, the task force shall—

(A) take into account the capability of the marine transportation system, the adequacy of depth of approach channels and harbors, and the cost to the Federal Government to accommodate projected increases in foreign and domestic traffic over the next 20 years;

(B) consult with senior public and private sector officials, including the users of that system, such as ports, commercial carriers, shippers, labor, recreational boaters, fishermen, and environmental organizations;

(C) sponsor public and private sector activities to further refine and implement (under existing authority) the strategies, recommendations, and plan for action;

(D) evaluate the capability to dispose of dredged materials that will be produced to accommodate projected increases referred to in subparagraph (A); and

(E) evaluate the future of the navigational aid system including the use of virtual aids to navigation on electronic charts.

(2) The Secretary shall report to Congress on the results of the assessment no later than July 1, 1999. The report shall reflect the views of both the public and private sectors. The Task Force shall cease to exist upon submission of the report in this paragraph.

SEC. 309. AVAILABILITY AND USE OF EPIRBS FOR RECREATIONAL VESSELS.

The Secretary of Transportation, through the Coast Guard and in consultation with the National Transportation Safety Board and recreational boating organizations, shall, within 24 months of the date of enactment of this Act, assess and report to Congress on the use of emergency position indicating beacons (EPIRBs) and similar devices by operators of recreational vessels on the Intracoastal Waterway and operators of recreational vessels beyond the Boundary Line. The assessment shall at a minimum—

(1) evaluate the current availability and use of EPIRBs and similar devices by the operators of recreational vessels and the actual and potential contribution of such devices to recreational boating safety; and

(2) provide recommendations on policies and programs to encourage the availability and use of EPIRBS and similar devices by the operators of recreational vessels.

SEC. 310. SEARCH AND RESCUE HELICOPTER COVERAGE.

Not later than 9 months after the date of enactment of this Act, the Commandant shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) identifying waters out to 50 miles from the territorial sea of Maine and other States that cannot currently be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;

(2) providing options for ensuring that all waters of the area referred to in paragraph (1) can be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;

(3) providing an analysis assessing the overall capability of Coast Guard search and rescue assets to serve each area referred to in paragraph (1) within 2 hours of a report of distress or request for assistance from such waters; and

(4) identifying, among any other options the Commandant may provide as required by paragraph (2), locations in the State of Maine that may be suitable for the stationing of a Coast Guard search and rescue helicopter and crew, including any Coast Guard facility in Maine, the Bangor Air National Guard Base, and any other locations.

SEC. 311. PETROLEUM TRANSPORTATION.

(a) DEFINITIONS.—In this section:

(1) FIRST COAST GUARD DISTRICT.—The term ''First Coast Guard District'' means the First Coast Guard District described in section 3.05-1(b) of title 33, Code of Federal Regulations.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating.

(3) WATERS OF THE NORTHEAST.—The term ''waters of the Northeast''—

(A) means the waters subject to the jurisdiction of the First Coast Guard District; and

(B) includes the waters of Long Island Sound.

(b) REGULATIONS RELATING TO WATERS OF THE NORTHEAST.—

(1) TOWING VESSEL AND BARGE SAFETY FOR WATERS OF THE NORTHEAST.—

(A) IN GENERAL.—Not later than December 31, 1998, the Secretary shall promulgate regulations for towing vessel and barge safety for the waters of the Northeast.

(B) INCORPORATION OF RECOMMENDATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), the regulations promulgated under this paragraph shall give full consideration to each of the recommendations for regulations contained in the report entitled ''Regional Risk Assessment of Petroleum Transportation in the Waters of the Northeast United States'' issued by the Regional Risk Assessment Team for the First Coast Guard District on February 6, 1997, and the Secretary shall provide a detailed explanation if any recommendation is not adopted.

(ii) EXCLUDED RECOMMENDATIONS.—The regulations promulgated under this paragraph shall not incorporate any recommendation referred to in clause (i) that relates to anchoring or barge retrieval systems.

(2) ANCHORING AND BARGE RETRIEVAL SYSTEMS.—

(A) IN GENERAL.—Not later than November 30, 1998, the Secretary shall promulgate regulations under section 3719 of title 46, United States Code, for the waters of the Northeast, that shall give full consideration to each of the recommendations made in the report referred to in paragraph (1)(B)(i) relating to anchoring and barge retrieval systems, and the Secretary shall provide a detailed explanation if any recommendation is not adopted.

(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) prevents the Secretary from promulgating interim final regulations that apply throughout the United States relating to anchoring and barge retrieval systems that contain requirements that are as stringent as the requirements of the regulations promulgated under subparagraph (A).

SEC. 312. SEASONAL COAST GUARD HELICOPTER AIR RESCUE CAPABILITY.

The Secretary of Transportation is authorized to take appropriate actions to ensure the establishment and operation by the Coast Guard of a helicopter air rescue capability that—

(1) is located at Gabreski Airport, Westhampton, New York; and

(2) provides air rescue capability from that location from April 15 to October 15 each year.

SEC. 313. SHIP REPORTING SYSTEMS.

Section 11 of the Ports and Waterways Safety Act (Public Law 92-340; 33 U.S.C. 1230), is amended by adding at the end of the following:

''(d) SHIP REPORTING SYSTEMS.—The Secretary, in cooperation with the International Maritime Organization, is authorized to implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean: Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39' N., 70 deg. 37' W; then northeast to 42 deg. 45' N., 70 deg. 13' W; then southeast to 42 deg. 10' N., 68 deg. 31 W, then south to 41 deg. 00' N., 68 deg. 31' W; then west to 41 deg. 00' N., 69 deg. 17' W; then northeast to 42 deg. 05' N., 70 deg. 02' W, then west to 42 deg. 04' N., 70 deg. 10' W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39' N., 70 deg. 37' W) and in the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6' W with the southern and northern boundary at latitudes 30 deg. 00' N., 31 deg. 27' N., respectively).''.

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

(a) IN GENERAL.—Chapter 121 of title 46, United States Code, is amended—

(1) by striking ''or is not titled in a State'' in section 12102(a);

(2) by adding at the end thereof the following:

"§12124. Surrender of title and number

''(a) A documented vessel shall not be titled by a State or required to display numbers under chapter 123, and any certificate of title issued by a State for a documented vessel shall be surrendered in accordance with regulations prescribed by the Secretary of Transportation.

''(b) The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 121 of title 46, United States Code, is amended by adding at the end thereof the following:

''12124. Surrender of title and number.''.

(c) OTHER AMENDMENTS.—Title 46, United States Code, is amended—

(1) by striking section 31322(b) and inserting the following:

''(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.'';

(2) by striking ''mortgage or instrument'' each place it appears in section 31322(d)(1) and inserting ''mortgage, security agreement, or instrument'';

(3) by striking section 31322(d)(3) and inserting the following:

''(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this subsection.'';

(4) by striking ''mortgages or instruments'' in subsection 31322(d)(2) and inserting ''mortgages, security agreements, or instruments'';

(5) by inserting ''a vessel titled in a State,'' in section 31325(b)(1) after ''a vessel to be documented under chapter 121 of this title,'';

(6) by inserting ''a vessel titled in a State,'' in section 31325(b)(3) after ''a vessel for which an application for documentation is filed under chapter 121 of this title,''; and

(7) by inserting ''a vessel titled in a State,'' in section 31325(c) after ''a vessel to be documented under chapter 121 of this title,''.

SEC. 402. CONVEYANCE OF COAST GUARD RESERVE TRAINING FACILITY, JACKSONVILLE, FLORIDA.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve training facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard shall dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other person, the Commandant of the Coast Guard shall give to the city of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

SEC. 403. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for each of the following vessels:

(1) SEAGULL (United States official number 1038605).

(2) BAREFOOT CONTESA (United States official number 285410).

(3) PRECIOUS METAL (United States official number 596316).

(4) BLUE HAWAII (State of Florida registration number FL0466KC).

(5) SOUTHERN STAR (United States official number 650774).

(6) KEEWAYDIN (United States official number 662066).

(7) W.G. JACKSON (United States official number 1047199).

(8) The vessel known as hopper barge E–15 (North Carolina State official number 264959).

(9) MIGHTY JOHN III (formerly the NIAGARA QUEEN, Canadian registration number 318746).

(10) MAR Y PAZ (United States official number 668179).

(11) SAMAKEE (State of New York registration number NY 4108 FK).

(12) NAWNSENSE (United States official number 977593).

(13) ELMO (State of Florida registration number FL5337BG).

(14) MANA-WANUI (United States official number 286657).

(15) OLD JOE (formerly TEMPTRESS; United States official number 991150).

(16) M/V BAHAMA PRIDE (United States official number 588647).

(17) WINDWISP (United States official number 571621).

(18) SOUTHLAND (United States official number 639705).

(19) FJORDING (United States official number 594363).

(20) M/V SAND ISLAND (United States official number 542918).

(21) PACIFIC MONARCH (United States official number 557467).

(22) FLAME (United States official number 279363).

(23) DULARGE (United States official number 653762).

(24) DUSKEN IV (United States official number 952645).

(25) SUMMER BREEZE (United States official number 552808).

(26) ARCELLA (United States official number 1025983).

(27) BILLIE-B-II (United States official number 982069).

(28) VESTERHAVET (United States official number 979206).

(29) BETTY JANE (State of Virginia registration number VA 7271 P).

(30) VORTICE, Bari, Italy, registration number 256.

(31) The barge G. L. 8 (Canadian official number 814376).

(32) YESTERDAYS DREAM (United States official number 680266).

(33) ENFORCER (United States official number 502610).

(34) The vessel registered as State of Oregon registration number OR 766 YE.

(35) AMICI (United States official number 658055).

(36) ELIS (United States official number 628358).

(37) STURE (United States official number 617703).

(38) CAPT GRADY (United States official number 626257).

(39) Barge number 1 (United States official number 933248).

(40) Barge number 2 (United States official number 256944).

(41) Barge number 14 (United States official number 501212).

(42) Barge number 18 (United States official number 297114).

(43) Barge number 19 (United States official number 503740).

(44) Barge number 21 (United States official number 650581).

(45) Barge number 22 (United States official number 650582).

(46) Barge number 23 (United States official number 650583).

(47) Barge number 24 (United States official number 664023).

(48) Barge number 25 (United States official number 664024).

(49) Barge number 26 (United States official number 271926).

(50) FULL HOUSE (United States official number 1023827).

(51) EMBARCADERO (United States official number 669327).

(52) S.A., British Columbia (Canada official number 195214).

(53) FAR HORIZONS (United States official number 1044011).

(54) LITTLE TOOT (United States official number 938858).

(55) EAGLE FEATHERS (United States official number 1020989).

(56) ORCA (United States official number 665270).

(57) TAURUS (United States official number 955814).

(58) The barge KC–251 (United States official number CG019166; National Vessel Documentation Center number 1055559).

(59) VIKING (United States official number 224430).

(60) SARAH B (United States official number 928431).

(b) FALLS POINT.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FALLS POINT, State of Maine registration number ME 5435 E.

(c) COASTAL TRADER.—Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978) is amended by inserting ''COASTAL TRADER (United States official number 683227),'' after ''vessels''.

(d) NINA, PINTA, AND SANTA MARIA REPLICAS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade only for the purpose of carrying passengers for hire for each of the vessels listed in paragraph (2).

(2) VESSEL DESCRIPTIONS.—The vessels referred to in paragraph (1) are the following:

(A) NINA (United States Coast Guard vessel identification number CG034346).

(B) PINTA (United States Coast Guard vessel identification number CG034345).

(C) NAO SANTA MARIA (United States Coast Guard vessel identification number CG034344).

(e) DOCUMENTATION OF VESSEL COLUMBUS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), sections 12102 and 12106 of title 46, United States Code, and the endorsement limitation in section 5501(a)(2)(B) of Public Law 102–587, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel COLUMBUS (United States official number 590658).

(2) LIMITATION.—Coastwise trade referred to in paragraph (1) may not include the transportation of dredged material from a project in which the stated intent of the Corps of Engineers, in its Construction Solicitation, or of another contracting entity, is that the dredged material is—

(A) to be deposited above mean high tide for the purpose of beach nourishment;

(B) to be deposited into a fill area for the purpose of creation of land for an immediate use

identified in the Construction Solicitation other than disposal of the dredged material; or

(C) for the intention of immediate sale or resale unrelated to disposal.

(f) FOILCAT.—

(1) IN GENERAL.—Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Passenger Vessel Act (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FOILCAT (United States official number 1063892). The endorsement shall provide that the vessel shall operate under the certificate of documentation only within the State of Hawaii and that the vessel shall not operate on any route served by a passenger ferry as of the date the Secretary of Transportation issues a certificate of documentation under this Act.

(2) TERMINATION.—The endorsement issued under paragraph (1) shall be in effect for the vessel FOILCAT for the period—

(A) beginning on the date on which the vessel is placed in service to initiate a high-speed marine ferry demonstration project sponsored by the State of Hawaii; and

(B) ending on the last day of the 36th month beginning after the date on which it became effective under subparagraph (A).

SEC. 404. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.

(a) IN GENERAL.—The Commandant of the Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant (the ''Town'') unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(b) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(d) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (c); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 405. UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding any other provision of law, the liftbridge over the back channel of the Schuylkill River in Philadelphia, Pennsylvania, is deemed to unreasonably obstruct navigation.

SEC. 406. FINANCIAL RESPONSIBILITY FOR OIL SPILL RESPONSE VESSELS.

Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended—

(1) in subsection (a)(1), by striking ''(except'' and all that follows through ''Act)'' and inserting a comma; and

(2) by adding at the end of subsection (c) the following:

''(4) CERTAIN TANK VESSELS.—Subsection (a)(1) shall not apply to—

''(A) a tank vessel on which the only oil carried as cargo is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act; and

''(B) a tank vessel that is designated in its certificate of inspection as an oil spill response vessel (as that term is defined in section 2101 of title 46, United States Code) and that is used solely for removal.''.

SEC. 407. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY IN JACKSONVILLE, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to Jacksonville University, located in Jacksonville, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University.

SEC. 408. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(e)(1) A vessel may not transport Government-impelled cargoes if—

''(A) the vessel has been detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

''(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

''(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

''(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

''(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

''(3) As used in this subsection, the term 'Government-impelled cargo' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect January 1, 1999.

SEC. 409. COAST GUARD CITY, USA.

The Commandant of the Coast Guard may recognize the community of Grand Haven, Michigan, as ''Coast Guard City, USA''. If the Commandant desires to recognize any other community in the same manner or any other community requests such recognition from the Coast Guard, the Commandant shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 90 days prior to approving such recognition.

SEC. 410. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts (the ''Town'') unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) LIMITATION.—The Commandant shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—

(A) The Commandant may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) The Commandant may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (b); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 411. CLARIFICATION OF LIABILITY OF PERSONS ENGAGING IN OIL SPILL PREVENTION AND RESPONSE ACTIVITIES.

(a) CLARIFICATION OF LIABILITY FOR PREVENTING SUBSTANTIAL THREAT OF DISCHARGE.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)(8) by striking ''to minimize or mitigate damage'' and inserting ''to prevent, minimize, or mitigate damage'';

(2) by striking ''and'' after the semicolon at the end of subsection (a)(23), by striking the period at the end of subsection (a)(24) and inserting ''; and'', and by adding at the end of subsection (a) the following:

''(25) 'removal costs' means—

''(A) the costs of removal of oil or a hazardous substance that are incurred after it is discharged; and

''(B) in any case in which there is a substantial threat of a discharge of oil or a hazardous substance, the costs to prevent, minimize, or mitigate that threat.''; and

(3) in subsection (c)(4)(A), by striking the period at the end and inserting the following: ''relating to a discharge or a substantial threat of a discharge of oil or a hazardous substance.''.

(b) OIL SPILL MECHANICAL REMOVAL.—Section 311(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(2)) is amended—

(1) by striking ''and (C)'' and inserting '', (C)''; and

(2) by inserting before the semicolon at the end the following: '', and (D) discharges incidental to mechanical removal authorized by the President under subsection (c) of this section''.

SEC. 412. VESSELS NOT SEAGOING MOTOR VESSELS.

(a) VESSEL TURMOIL.—

(1) IN GENERAL.—The vessel described in paragraph (2) is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons, if—

(A) it does not carry cargo or passengers for hire; and

(B) it does not engage in commercial fisheries or oceanographic research.

(2) VESSEL DESCRIBED.—The vessel referred to in paragraph (1) is the vessel TURMOIL (British official number 726767).

(b) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary may establish a pilot program to exempt a vessel of at least 300 gross tons as measured under chapter 143 or chapter 145 of title 46, United States Code, from the requirement to be inspected under section 3301(7) of title 46, United States Code, as a seagoing motor vessel, if—

(A) the vessel does not carry any cargo or passengers for hire;

(B) the vessel does not engage in commercial service, commercial fisheries, or oceanographic research; and

(C) the vessel does not engage in towing.

(2) EXPIRATION OF AUTHORITY.—The authority to grant the exemptions under this subsection expires 2 years after the date of enactment of this Act. Any specific exemptions granted under this subsection shall nonetheless remain in effect.

SEC. 413. LAND CONVEYANCE, COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the ''State''), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property; and

(D) the use of pier space on the property by search and rescue assets.

(2) That the State maintain the property in a manner so as to preserve the usefulness of the easements or rights of way referred to in paragraph (1).

(3) That the State utilize the property for transportation, education, environmental, or other public purposes.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights of way granted under subsection (b)(1), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a), and any easements or rights of way granted under subsection (b)(1), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 414. CONVEYANCE OF COAST GUARD PROPERTY IN SAULT SAINTE MARIE, MICHIGAN.

(a) REQUIREMENT TO CONVEY.—The Secretary of Transportation (in this section referred to as the ''Secretary'') shall promptly convey, without consideration, to American Legion Post No. 3 in Sault Sainte Marie, Michigan, all right, title, and interest of the United States in and to the parcel of real property described in section 202 of the Water Resources Development Act of 1990 (Public Law 101–640), as amended by section 323 of the Water Resources Development Act of 1992 (Public Law 102–580), comprising approximately 0.565 acres, together with any improvements thereon.

(b) CONDITION.—The conveyance under subsection (a) shall be subject to the condition that the property be used as a clubhouse for the American Legion Post No. 3.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the American Legion Post No. 3.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 415. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) IN GENERAL.—

(1) Subject to subsection (b), the Secretary of Transportation shall continue to implement and enforce the United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes and revisions thereto that are made in accordance with that Policy (hereinafter in this section referred to as the ''Policy'') for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States.

(2) Any discharge under this section shall comply with all terms and conditions of the Policy.

(b) EXPIRATION OF INTERIM AUTHORITY.—The Policy shall cease to have effect on the date which is the earliest of—

(1) the effective date of regulations promulgated pursuant to legislation enacted subsequent to the enactment of this Act providing for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States is enacted; or

(2) September 30, 2002.

SEC. 416. CONVEYANCE OF LIGHTHOUSES.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the Coast Guard, or the Administrator of the General Services Administration, as appropriate, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Light Station Sand Point, located in Escanaba, Michigan, to the Delta County Historical Society.

(B) Light Station Dunkirk, located in Dunkirk, New York, to the Dunkirk Historical Lighthouse and Veterans' Park Museum.

(C) The Mukilteo Light Station, located in Mukilteo, Washington, to the City of Mukilteo.

(D) Eagle Harbor Light Station, located in Michigan, to the Keweenaw County Historical Society.

(E) Cape Decision Light Station, located in Alaska, to the Cape Decision Lighthouse Society.

(F) Cape St. Elias Light Station, located in Alaska, to the Cape St. Elias Light Keepers Association.

(G) Five Finger Light Station, located in Alaska, to the Juneau Lighthouse Association.

(H) Point Retreat Light Station, located in Alaska, to the Alaska Lighthouse Association.

(I) Hudson-Athens Lighthouse, located in New York, to the Hudson-Athens Lighthouse Preservation Society.

(J) Georgetown Light, located in Georgetown County, South Carolina, to the South Carolina Department of Natural Resources.

(K) Coast Guard Light Station Two Harbors, located in Lake County, Minnesota, to the Lake County Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Commandant or Administrator, as appropriate, may identify, describe, and determine the property to be conveyed under this subsection.

(3) EXCEPTION.—The Commandant or Administrator, as appropriate, may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Commandant or the Administrator, as appropriate, may consider, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this Act; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (5) established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Commandant or the Administrator, as appropriate, provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property under this section shall be made subject to the conditions that the Commandant or Administrator, as appropriate, considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the

United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant or Administrator, as appropriate;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining and inspecting aids to navigation, and for the purpose of enforcing compliance with subsection (b); and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of the property is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(5) MAINTENANCE OF PROPERTY.—The owner of the property shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—In this section:

(1) AIDS TO NAVIGATION.—The term ''aids to navigation'' means equipment used for navigation purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) OWNER.—The term ''owner'' means the person identified in subsection (a)(1), and includes any successor or assign of that person.

(3) DELTA COUNTY HISTORICAL SOCIETY.—The term ''Delta County Historical Society'' means the Delta County Historical Society (a nonprofit corporation established under the laws of the State of Michigan, its parent organization, or subsidiary, if any).

(4) DUNKIRK HISTORICAL LIGHTHOUSE AND VETERANS' PARK MUSEUM.—The term ''Dunkirk Historical Lighthouse and Veterans' Park Museum'' means Dunkirk Historical Lighthouse and Veterans' Park Museum located in Dunkirk, New York, or, if appropriate as determined by the Commandant, the Chautauqua County Armed Forces Memorial Park Corporation, New York.

(5) LAKE COUNTY HISTORICAL SOCIETY.—The term ''Lake County Historical Society'' means the Lake County Historical Society (a nonprofit corporation established under the laws of the State of Minnesota), its parent organization or subsidiary, if any, and its successors and assigns.

(d) NOTIFICATION.—Not less than one year prior to reporting to the General Services Administration that a lighthouse or light station eligible for listing under the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and under the jurisdiction of the Coast Guard is excess to the needs of the Coast Guard, the Commandant of the Coast Guard shall notify the State in which the lighthouse or light station is located, (including the State Historic Preservation Officer, if any) the appropriate political subdivision of that State, and any lighthouse, historic, or maritime preservation organizations in that State, that such property is excess to the needs of the Coast Guard.

(e) EXTENSION OF PERIOD FOR CONVEYANCE OF WHITLOCK'S MILL LIGHT.—Notwithstanding section 1002(a)(3) of the Coast Guard Authorization Act of 1996, the conveyance authorized by section 1002(a)(2)(AA) of that Act may take place after the date required by section 1002(a)(3) of that Act but no later than December 31, 1998.

SEC. 417. CONVEYANCE OF COAST GUARD LORAN STATION NANTUCKET.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the United States Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to approximately 29.4 acres of land, together with the improvements thereon, at Coast Guard LORAN Station Nantucket, Nantucket, Massachusetts, to the Town of Nantucket, Massachusetts (''the Town'') unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) IDENTIFICATION OF PROPERTY.—

(A) The Commandant may identify, define, describe, and determine the real property to be conveyed under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of real property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the following terms and conditions:

(i) The Town shall not, upon the property conveyed, allow, conduct, or permit any activity, or operate, allow, or permit the operation of, any equipment or machinery, that would interfere or cause interference, in any manner, with any aid to navigation located upon property retained by the United States at Coast Guard LORAN Station Nantucket, without the express written permission from the Commandant.

(ii) The Town shall maintain the real property conveyed in a manner consistent with the present and future use of any property retained by the United States at Coast Guard LORAN Station Nantucket as a site for an aid to navigation.

(iii) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) the property, or any part thereof, ceases to be owned and used by the Town;

(B) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in paragraph (1); or

(C) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 418. CONVEYANCE OF DECOMMISSIONED COAST GUARD VESSELS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to each of 2 decommissioned ''White Class'' 133-foot Coast Guard vessels to Canvasback Mission, Inc. (a nonprofit corporation under the laws of the State of Oregon; in this section referred to as ''the recipient''), without consideration, if—

(1) the recipient agrees—

(A) to use the vessel for purposes of providing medical services to Central and South Pacific island nations;

(B) not to use the vessel for commercial transportation purposes except those incident to the provisions of those medical services;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in times of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under paragraph (1)(C);

(2) the recipient has funds available that will be committed to operate and maintain each vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in the amount of at least $400,000 per vessel; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSELS.—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as a medical services vessel in Central and South Pacific Islands.

SEC. 419. AMENDMENT TO CONVEYANCE OF VESSEL S/S RED OAK VICTORY.

Section 1008(d)(1) of the Coast Guard Authorization Act of 1996 is amended by striking ''2 years'' and inserting ''3 years''.

SEC. 420. TRANSFER OF OCRACOKE LIGHT STATION TO SECRETARY OF THE INTERIOR.

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

SEC. 421. VESSEL DOCUMENTATION CLARIFICATION.

Section 12102(a)(4) of title 46, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking ''president or other''; and

(2) inserting a comma and ''by whatever title,'' after ''chief executive officer''.

SEC. 422. DREDGE CLARIFICATION.

Section 5209(b) of the Oceans Act of 1992 (46 U.S.C. 2101 note) is amended by adding at the end thereof the following:

''(3) A vessel—

''(A) configured, outfitted, and operated primarily for dredging operations; and

''(B) engaged in dredging operations which transfers fuel to other vessels engaged in the same dredging operations without charge.''.

SEC. 423. DOUBLE HULL ALTERNATIVE DESIGNS STUDY.

Section 4115(e) of the Oil Pollution Act of 1990 (46 U.S. Code 3703a note) is amended by adding at the end thereof the following:

''(3)(A) The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct the necessary research and development of a rationally based equivalency assessment approach, which accounts for the overall environmental performance of alternative tank vessel designs. Notwithstanding the Coast Guard opinion of the application of sections 101 and 311 of the Clean Water Act (33 U.S.C. 1251 and 1321), the intent

of this study is to establish an equivalency evaluation procedure that maintains a high standard of environmental protection, while encouraging innovative ship design. The study shall include:

''(i) development of a generalized cost spill data base, which includes all relevant costs such as clean-up costs and environmental impact costs as a function of spill size;

''(ii) refinement of the probability density functions used to establish the extent of vessel damage, based on the latest available historical damage statistics, and current research on the crash worthiness of tank vessel structures;

''(iii) development of a rationally based approach for calculating an environmental index, to assess overall outflow performance due to collisions and groundings; and

''(iv) application of the proposed index to double hull tank vessels and alternative designs currently under consideration.

''(B) A Marine Board committee shall be established not later that 2 months after the date of enactment of the Coast Guard Authorization Act of 1998. The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure in the House of Representatives a report on the results of the study not later than 12 months after the date of enactment of the Coast Guard Authorization Act of 1998.

''(C) Of the amounts authorized by section 1012(a)(5)(A) of this Act, $500,000 is authorized to carry out the activities under subparagraphs (A) and (B) of this paragraph.''.

SEC. 424. VESSEL SHARING AGREEMENTS.

(a) Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by adding at the end thereof the following:

''(g) VESSEL SHARING AGREEMENTS.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a United States-flag liner vessel documented pursuant to sections 12102(a) or (d) of title 46, United States Code, is authorized to agree with an ocean common carrier that is not the owner, operator or bareboat charterer for at least one year of United States-flag liner vessels which are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program pursuant to subtitle B of title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1187 et seq.), to which it charters or subcharters the United States-flag vessel or space on the United States-flag vessel that such charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for United States-flag vessels.''.

(b) Section 10(c)(6) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)(6)) is amended by inserting ''authorized by section 5(g) of this Act, or as'' before ''otherwise''.

(c) Nothing in this section shall affect or in any way diminish the authority or effectiveness of orders issued by the Maritime Administration pursuant to sections 9 and 41 of the Shipping Act, 1916 (46 U.S.C. App. 808 and 839).

(d) Section 3(6)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)(B)) is amended by striking ''parcel-tanker.'' and inserting ''parcel-tanker or by vessel when primarily engaged in the carriage of perishable agricultural commodities (i) if the common carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and (ii) only with respect to the carriage of those commodities.''.

SEC. 425. REPORTS.

(a) SWATH TECHNOLOGY.—The Commandant of the Coast Guard shall, within 18 months after the date of enactment of this Act, report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the applicability of Small Waterplane Area Twin Hull (SWATH) technology, including concepts developed by the United States Office of Naval Research, to the design of Coast Guard vessels.

(b) MARINE GUIDANCE SYSTEMS.—The Secretary of Transportation shall, within 12 months after the date of the enactment of this Act, evaluate and report to the Congress on the suitability of marine sector laser lighting, cold cathode lighting, and ultraviolet enhanced vision technologies for use in guiding marine vessels and traffic.

SEC. 426. REPORT ON TONNAGE CALCULATION METHODOLOGY.

The Administrator of the Panama Canal Commission shall, within 90 days of the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the methodology employed in the calculation of the charge of tolls for the carriage of on-deck containers and the justification thereof.

SEC. 427. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSELS.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as ''the Secretary'') may convey all right, title, and interest of the Federal Government in and to either or both of the vessels S.S. AMERICAN VICTORY (United States official number 248005) and S.S. HATTIESBURG VICTORY (United States official number 248651) to The Victory Ship, Inc., located in Tampa, Florida (in this section referred to as the ''recipient''), and the recipient may use each vessel conveyed only as a memorial to the Victory class of ships.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver a vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of any vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

SEC. 428. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL, JOHN HENRY.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Secretary of Transportation (in this section referred to as ''the Secretary'') may convey all right, title, and interest of the United States Government in and to the vessel JOHN HENRY (United States official number 599294) to a purchaser for use in humanitarian relief efforts, including the provision of water and humanitarian goods to developing nations.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date;

(C) at no cost to the United States Government; and

(D) only after the vessel has been redesignated as not militarily useful.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that the vessel shall not be used for commercial transportation purposes or for the carriage of cargoes reserved to United States flag commercial vessels under section 901(b) and 901f of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f);

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has financial resources in the form of cash, liquid assets, or a written loan commitment of at least $100,000.

(F) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or national emergency.

(G) the recipient agrees to document the vessel under chapter 121 of title 46, United States Code.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of the M/V JOHN HENRY shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

SEC. 429. APPLICABILITY OF AUTHORITY TO RELEASE RESTRICTIONS AND ENCUMBRANCES.

Section 315(c)(1) of the Federal Maritime Commission Authorization Act of 1990 (Public Law 101–595; 104 Stat. 2988) is amended—

(1) by striking ''3 contiguous tracts'' and inserting ''4 tracts''; and

(2) by striking ''Tract A'' and all that follows through the end of the paragraph and inserting the following:

''Tract 1—Commencing at a point N45° 28′ 31″ E 198.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 220 feet; thence N45° 28′ 31″ E 50 feet; thence N44° 29′ 09″ W 220 feet; thence S45° 28′ 31″ W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).

''Tract 2—Commencing at a point N45° 28′ 31″ E 198.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 169.3 feet; thence S45° 28′ 31″ W 75 feet; (Deed Call S45° 30′ 51″ W 75 feet), thence N44° 29′ 09″ W 169.3 feet; thence N45° 28′ 31″ E 75 feet to the point of commencement and containing 12,697 square feet (0.2915 acres).

''Tract 3—Commencing at a point N45° 28′ 31″ E 248.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 220 feet; thence N45° 28′ 31″ E 50 feet; thence N44° 29′ 09″ W 220 feet; thence S45° 28′ 31″ W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).

''Tract 4—Commencing at a point N45° 28′ 31″ E 123.3 feet and S44° 29′ 09″ E 169.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 50.7 feet; thence N45° 28′ 31″ E 75 feet; thence N44° 29′ 09″ W 50.7 feet; thence S45° 28′ 31″ W 75 feet (Deed Call S45° 30′ 51″ W 75 feet) to the point of commencement and containing 3,802 square feet (0.0873 acres).

''Composite Description—A tract of land lying in section 2, Township 10 South—Range 8 West, Calcasieu Parish, Louisiana, and being mone [sic] particularly described as follows: Begin at a point N45° 28′ 31″ E 123.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence N45° 28′ 31″ E 175.0 feet; thence S44° 29′ 09″ E 220.0 feet; thence S45° 28′ 31″ W 175.0 feet; thence N44° 29′ 09″ W 220.0 feet to the point of beginning, containing 0.8035 acres.''.

SEC. 430. BARGE APL–60.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the barge APL–60 (United States official number 376857).

(b) LIMITATIONS.—The vessel described in subsection (a) may be employed in the coastwise trade only for the purpose of participating in the ship disposal initiative initially funded by the Department of Defense Appropriations Act, 1999, for the duration of that initiative.

(c) TERMINATION.—A coastwise endorsement issued under subsection (a) shall terminate on the earlier of—

(1) the completion of the final coastwise trade voyage associated with the ship disposal initiative described in subsection (b); or

(2) the sale or transfer of the vessel described in subsection (a) to an owner other than the owner of the vessel as of October 1, 1998.

SEC. 431. VESSEL FINANCING FLEXIBILITY.

The Secretary of Transportation may guarantee obligations under section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C.1273), for the vessels planned for construction to be purchased by the American West Steamboat Company and to be named QUEEN OF THE YUKON, which will operate on the Yukon and Tanana Rivers, and EMPRESS OF THE NORTH, which will operate in Alaska, Washington, and Oregon. Notwithstanding sections 509, 1103(c)), and 1104A(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1159, 1273(c), and 1274(b)), the Secretary of Transportation may guarantee obligations of 87½ percent of the purchase price of such vessels. Each obligation guaranteed under this section may have a maturity date of 25 years from the date of delivery of the vessel concerned.

SEC. 432. HYDROGRAPHIC FUNCTIONS.

(a) EFFECTIVE DATE.—Subsections (b) and (c) shall take effect immediately after the later of—

(1) the enactment of the Hydrographic Services Improvement Act of 1998; or

(2) the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 306 of the Hydrographic Services Improvement Act of 1998 is amended to read as follows:

''SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the Administrator the following:

''(1) To carry out nautical mapping and charting functions under the Act of 1947 and sections 303 and 304, except for conducting hydrographic surveys, $33,000,000 for fiscal year 1999, $34,000,000 for fiscal year 2000, and $35,000,000 for fiscal year 2001.

''(2) To conduct hydrographic surveys under section 303(a)(1), including the leasing of ships, $33,000,000 for fiscal year 1999, $35,000,000 for fiscal year 2000, and $37,000,000 for fiscal year 2001. Of these amounts, no more than $16,000,000 is authorized for any one fiscal year to operate hydrographic survey vessels owned and operated by the Administration.

''(3) To carry out geodetic functions under the Act of 1947, $25,000,000 for fiscal year 1999, $30,000,000 for fiscal year 2000, and $30,000,000 for fiscal year 2001.

''(4) To carry out tide and current measurement functions under the Act of 1947, $22,500,000 for each of fiscal years 1999 through 2001. Of these amounts $4,500,000 is authorized for each fiscal year to implement and operate a national quality control system for real-time tide and current and maintain the national tide network, and $7,000,000 is authorized for each fiscal year to design and install real-time tide and current data measurement systems under section 303(b)(4).''.

(c) REPEAL OF REPORT REQUIREMENTS.—Section 305 of the Hydrographic Services Improvement Act of 1998 is amended by striking subsections (a) and (d).

TITLE V—ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

SEC. 501. FINDINGS.

The Congress finds that—

(1) current coastwise trade laws provide no administrative authority to waive the United-States-built requirement of those laws for the limited carriage of passengers for hire on vessels built or rebuilt outside the United States;

(2) requests for such waivers require the enactment of legislation by the Congress;

(3) each Congress routinely approves numerous such requests for waiver and rarely rejects any such request; and

(4) the review and approval of such waiver requests is a ministerial function which properly should be executed by an administrative agency with appropriate expertise.

SEC. 502. ADMINISTRATIVE WAIVER OF COASTWISE TRADE LAWS.

Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

(1) United States vessel builders; or

(2) the coastwise trade business of any person who employs vessels built in the United States in that business.

SEC. 503. REVOCATION.

The Secretary may revoke an endorsement issued under section 502, after notice and an opportunity for public comment, if the Secretary determines that the employment of the vessel in the coastwise trade has substantially changed since the issuance of the endorsement, and—

(1) the vessel is employed other than as a small passenger vessel or an uninspected passenger vessel; or

(2) the employment of the vessel adversely affects—

(A) United States vessel builders; or

(B) the coastwise trade business of any person who employs vessels built in the United States.

SEC. 504. DEFINITIONS.

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) ELIGIBLE VESSEL.—The term ''eligible vessel'' means a vessel that—

(A) was not built in the United States and is at least 3 years of age; or

(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certification requested under section 502, if granted, would take effect.

(3) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms ''small passenger vessel'', ''uninspected passenger vessel'', and ''passenger for hire'' have the meaning given such terms by section 2101 of title 46, United States Code.

SEC. 505. SUNSET.

(a) IN GENERAL.—Subject to subsection (b), this title (other than this section) shall have no force or effect on or after September 30, 2002.

(b) ENDORSEMENTS CONTINUE.—Any certificate or endorsement issued under section 502 before the date referred to in subsection (a) of this section shall continue in effect until otherwise invalidated or revoked under chapter 121 of title 46, United States Code.

TITLE VI—HARMFUL ALGAL BLOOMS AND HYPOXIA

SEC. 601. SHORT TITLE.

This title may be cited as the ''Harmful Algal Bloom and Hypoxia Research and Control Act of 1998''.

SEC. 602. FINDINGS.

The Congress finds that—

(1) the recent outbreak of the harmful microbe Pfiesteria piscicida in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation's coastal waters;

(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii,

Florida, Puerto Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

(5) harmful algal blooms may have been responsible for an estimated $1,000,000,000 in economic losses during the past decade;

(6) harmful algal blooms and blooms of nontoxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.

SEC. 603. ASSESSMENTS.

(a) ESTABLISHMENT OF INTER-AGENCY TASK FORCE.—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the ''Task Force''). The Task Force shall consist of the following representatives from—

(1) the Department of Commerce (who shall serve as Chairman of the Task Force);

(2) the Environmental Protection Agency;

(3) the Department of Agriculture;

(4) the Department of the Interior;

(5) the Department of the Navy;

(6) the Department of Health and Human Services;

(7) the National Science Foundation;

(8) the National Aeronautics and Space Administration;

(9) the Food and Drug Administration;

(10) the Office of Science and Technology Policy;

(11) the Council on Environmental Quality; and

(12) such other Federal agencies as the President considers appropriate.

(b) ASSESSMENT OF HARMFUL ALGAL BLOOMS.—

(1) Not later than 12 months after the date of enactment of this title, the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

(c) ASSESSMENT OF HYPOXIA.—

(1) Not later than 12 months after the date of enactment of this title, the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

(e) DISESTABLISHMENT OF TASK FORCE.—The President may disestablish the Task Force after submission of the plan in section 604(d).

SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

(a) ASSESSMENT REPORT.—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

(b) SUBMISSION OF A PLAN.—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, $15,000,000 for fiscal year 1999, $18,250,000 for fiscal year 2000, and $19,000,000 for fiscal year 2001, to remain available until expended. The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

(1) $1,500,000 for fiscal year 1999, $1,500,000 for fiscal year 2000, and $2,000,000 for fiscal year 2001 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

(2) $4,000,000 for fiscal year 1999, $5,500,000 for fiscal year 2000, and $5,500,000 for fiscal year 2001 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102–567;

(3) $1,000,000 for fiscal year 1999, $2,000,000 for fiscal year 2000, and $2,000,000 for fiscal year 2001 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms;

(4) $5,500,000 for each of the fiscal years 1999, 2000, and 2001 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration; and

(5) $3,000,000 for fiscal year 1999, $3,750,000 for fiscal year 2000, and $4,000,000 for fiscal year 2001 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration.

SEC. 606. PROTECTION OF STATES' RIGHTS.

(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

Mr. BAUCUS. I understand that the House has sent the Senate a substitute to H.R. 2204, the Coast Guard Authorization Act of 1998, that includes a provision that would amend the Clean Water Act.

Mr. CHAFEE. The Senator is correct. The version of H.R. 2204 that first passed the House last year included a section that made a change to the Clean Water Act to clarify liability concerns of the oil spill response industry. The Senate-passed H.R. 2204 on Monday, October 12, 1998, but it did not include the provision. The House amendment that is now before the Senate includes this provision in section 411(b).

Mr. BAUCUS. Senator, would you please describe the intent of the provision?

Mr. CHAFEE. The intent of this provision is to make it clear that discharges incidental to mechanical removal authorized by the President are not themselves separate and distinct acts of discharge within the meaning of the Clean Water Act. Our purpose is that persons, such as cleanup contractors, whose sole connection to discharges is cleanup or removal, will not be held responsible for unavoidable inconsequential discharges which are a function only of available response technology. For example, mechanical removal activities such as the ''decanting'' or separation of water from recovered oil usually involve the return of excess water into the response area. Since mechanical removal devices do not operate with 100% efficiency, some oil from the original discharge is entrained with the return water flow to the water body being mechanically cleaned.

Section 411(b) is not intended to alter the liability of responsible parties in any fashion. It is not intended to enable a responsible party to attribute any portion of the oil originally spilled to a subsequent release incident to the mechanical oil removal process. In other words, this provision is not intended to alter Congress' intent as expressed in section 311(c)(4)(B) of the Clean Water Act. It is limited solely to actions approved by the President in accordance with Clean Water Act section 311(c). In addition, this provision does not alter in any way the penalty calculation set forth in this section.

Mr. BAUCUS. Thank you.

Mr. MCCAIN. Mr. President, I rise in support of the Coast Guard Reauthorization Act. The House recently passed an amended version of the Senate Coast Guard bill. While I support the overall reauthorization of the Coast Guard, I want to comment on several provisions contained in the House passed bill.

There is currently an administrative process in place to convey excess Federal government property. I believe that legislation which mandates the transfer or disposal of Federal property under terms which circumvent the established administrative procedures is inappropriate. Consequently, the Senate bill used discretionary language to address certain conveyances requested by individual senators. However, the House bill includes mandatory legislative conveyances. In this case only, I am accepting the mandatory language because I am satisfied that the Coast Guard is willing and prepared to make each of these particular conveyances.

Another important difference between the House and Senate passed bills relates to drug interdiction. I sponsored an amendment in the Senate bill which would have established criminal sanctions for the knowing failure to obey an order to land an airplane. As a former pilot, let me clearly state that this provision was not designed to put any pilot at risk of an arbitrary or random forced landing. Arbitrary or random forced landings are impermissible under the Senate provision. As with all aviation legislation in which I have been involved, safety is a top priority. Under current law, if a Federal law enforcement officer who is enforcing drug smuggling or money laundering laws witnesses a person loading tons of cocaine onto a plane in Mexico, sees the plane take off and enter the United States, he may issue an order to land, and if the pilot knowingly disobeys that order, there is currently no criminal penalty associated with such a failure to obey the order.

The criminal sanctions contained in the Senate bill would only be applied to a person who knowingly disobeyed an order to land issued by a Federal law enforcement agent who is enforcing drug smuggling or money laundering laws. The bill would also require the Federal Aviation Administration (FAA) to write regulations defining the means by and circumstances under which it would be appropriate to order an aircraft to land. One of the FAA's essential missions is aviation safety. Accordingly, the FAA would be required to ensure that any such order is clearly communicated in accordance with international standards. Moreover, the FAA would be further required to specify when an order to land may be issued based on observed conduct, prior information, or other circumstances. Therefore, orders to land would have to be justifiable, not arbitrary or random. Orders to land would only be issued in cases where the authorized federal law enforcement agent has observed conduct or possesses reliable information which provides sufficient evidence of a violation of Federal drug smuggling or money laundering laws. If enacted, I would take every step possible to ensure that this provision does not diminish safety in any way.

Last year, 430 metric tons of cocaine entered the United States from Mexico. In 1995, drugs cost taxpayers an estimated $109 billion. The average convicted drug smuggler was sentenced to only 4.3 years in jail, and is expected to serve less than half of that sentence. It is incumbent on all of us to fight the war on drugs with every responsible and safe measure at our disposal. The provision in the Senate bill would help those men and women who fight the war on drugs at our borders by providing an additional penalty for those who knowingly disobey the law.

A provision included in both the House and Senate bill relates to the International Safety Management Code (ISM Code). On July 1, 1998, the owners and operators of passenger vessels, tankers and bulk carriers were required to have in place safety management systems which meet the requirements of the ISM Code. On July 1, 2002, all other large cargo ships and self-propelled mobile offshore drilling units will have to comply. Companies and vessels not ISM Code-certified are not permitted to enter U.S. waters.

Shipowners required to comply with the ISM Code have raised concerns that the ISM Code may be misused. The ISM Code requires a system of internal audits and reporting systems which are intended to encourage compliance with applicable environmental and vessel safety standards. However, the documents produced as a result of the ISM Code would also provide indications of past non-conformities. Obviously, for this information to be useful in rectifying environmental and safety concerns, it must be candid and complete. However, this information, prepared by shipowners or operators, may be used in enforcement actions against a shipowner or operator, crews and shoreside personnel by governmental agencies and may be subject to discovery in civil litigation.

The provision in both the Senate and House bills would require the Secretary to conduct a study to examine the operation of the ISM Code, taking into account the effectiveness of internal audits and reports. After completion of the study, the Secretary is required to develop a policy to achieve full compliance with and effective implementation of the ISM Code. Under the provision, the public shall be given the opportunity to participate in and comment on the study. In addition, it may be appropriate for the Secretary to form a working group of affected private parties to assist in the development of the study and the issuance of the required policy and any resulting legislative recommendations. Any private citizen who is a member of any such working group cannot receive any form of government funds, reimbursement or travel expenses for participation in, or while a member of, the working group.

The bill also includes a provision that would fix a curious conflict in maritime statutes that currently prohibits U.S. and foreign commercial vessel operators from agreeing among themselves to comply with the Maritime Administration's cargo preference policies concerning vessel sharing agreements, but allows the Maritime Administration to impose those policies on the agreements themselves. The vessel sharing agreement provision in the bill would allow the commercial vessel operators to voluntarily comply with that policy. This provision is consistent with a recent U.S. appeals court decision on this issue and simply preserves the status quo. The proper place to resolve concerns with cargo preference, many of which I share, is in the cargo preference statutes themselves.

● Mr. INOUYE. Mr. President, I rise today in support of the Coast Guard Authorization Act.

Since 1790 the U.S. Coast Guard and its predecessor services have done a truly outstanding job of protecting America's coasts and maritime interests. Today, the Coast Guard is recognized as the ''Premier Maritime Service in the World'' and a model of efficiency within the federal government.

Despite drastic reductions in resources and personnel over the last several years, the result of government downsizing and shrinking budgets, the Coast Guard has admirably maintained a high level of service. The Coast Guard has met the challenges of a growing number of missions while continuously improving performance in its existing mission areas of law enforcement, maritime safety, marine environmental protection, and national security. With personal strength at the lowest level since 1967, and the smallest fleet of aircraft and seagoing cutters since 1989, the men and women of the Coast Guard continue to provide outstanding service to our nation. Since 1992, the number of fisheries boarding conducted by Coast Guard personnel has increased by 62%. Since 1983, the number of undocumented migrants interdicted by the Coast Guard has grown by 635%. Last year, arrests of cocaine traffickers were up 1000%, and cocaine seizures were triple the previous year. Through these incredible interdiction efforts, the Coast Guard kept more than 468 million cocaine ''hits'' and 100 million marijuana ''joints'' off American streets last year. The estimated street value of these seizures is more than $4.2 billion—$1 billion more than the Coast Guard's entire 1997 discretionary budget.

The return on investment provided to the American taxpayer by the Coast Guard is not unique to its drug enforcement mission. In the area of Search and Rescue alone, the Coast Guard provided the American public with a 4-to-1 return on investment last year represented by 5,000 lives saved and 65,000 persons assisted. Further, Coast Guard prevention efforts have contributed to a 50% reduction in major oil spills over the past 10 years and a 43% decline in recreational boating deaths since 1970.

Mr. President, many in this country have no knowledge of the U.S. Coast Guard. Many do not realize the Coast Guard operates throughout the world and, in addition to its many other missions, is this nation's fifth armed service. Many do not realize that the U.S. Coast Guard participated extensively in the Persian Gulf War and, in fact, still has personnel in the Persian Gulf enforcing the embargo against Iraq, as well as in other ''hot spots'' around the world. Coast Guard cutters, aircraft and personnel routinely deploy throughout the world in support of Coast Guard missions ranging from search and rescue, law enforcement, and environmental protection to ice breaking, port security, and vessel safety.

Mr. President, the U.S. Coast Guard is an agency in which the U.S. should invest, not divest. This bill authorizes adequate funding and includes other provisions to allow the Coast Guard to continue to carry out its important work. For these reasons, I urge the passage of this important measure.●

Mr. LEVIN. Mr. President, I have serious objections to a provision in the Coast Guard authorization bill that was inserted in the House bill in a managers amendment with no hearings or vote in the Senate. This provision grants a waiver of existing law for a single vessel operating on the Great Lakes and elsewhere against the wishes of both Michigan Senators and other Senators and in circumvention of a Customs Service ruling regarding the type of dredge work this vessel is allowed to perform.

This waiver is a discriminatory provision which gives special treatment and a competitive advantage to one vessel at the expense of its competitors.

Mr. President, the granting of this waiver will be detrimental to other dredgers on the Great Lakes and elsewhere who are abiding by U.S. law and U.S. Customs Service interpretations of the Jones Act. The hopper dredge vessel *Columbus*, the vessel seeking the waiver, was challenged by a competitor for violating the Jones Act because it was performing dredging work that was not allowed under that Act. That challenge was upheld by the U.S. Customs Service. However, instead of abiding by or appealing the Customs Service ruling, a legislative waiver was sought to circumvent that ruling. The waiver was granted by the House, but not the Senate because the Senate passed Coast Guard authorization bill did not contain this discriminatory provision.

I want to make clear that the only reason this waiver will be included in the final Coast Guard authorization bill is due to the circumstances under which this bill is being considered. Under normal circumstances, I believe the Senate would have removed this provision from the final bill.

Next year I will introduce legislation to repeal the Jones Act waiver that is contained in the Coast Guard authorization bill, H.R. 2204, for the vessel *Columbus*. Mr. Chairman, it's my understanding that you and Senator SNOWE will work with me to repeal this waiver as early as possible next year.

Ms. SNOWE. I recognize the concerns of the senior Senator from Michigan about this waiver. I will work with you to repeal the Jones Act waiver for the vessel *Columbus*.

Mr. MCCAIN. I also recognize the Senator's concerns and I will work with the Senator from Michigan to find a solution that eliminates an unfair competitive disadvantage when the Commerce Committee considers the legislation as early as possible next year. This is a complex issue and I am sure that the Senator from Michigan would agree that fairness to all parties involved must be taken into account in addressing it. I would also like to address the broader issue of what type of dredging should be conducted on the Great Lakes so there is clarification on this issue in the future.

Mr. LOTT. Mr. President, I ask unanimous consent the Senate agree to the amendment of the House.

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

Mr. LOTT. Mr. President, I understand most all of the legislative and Executive Calendar items that can be cleared have been considered by the Senate. We are still working on some of the nominations for clearance. I thank all of my colleagues for their cooperation in the 105th Congress. I hope they have a good campaign season and period at home with their constituents and that we can work together on some very important issues in the 106th Congress.

We will have the final close in a few moments, but I understand there are at least one or two Senators who will have statements before we get to that.

Once again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE RICKY RAY BILL

Mr. DEWINE. Mr. President, first let me thank the majority leader for the passage of the Ricky Ray bill, which just occurred a few moments ago. This is a bill that I introduced, along with Senator BOB GRAHAM, here in the Senate. It was introduced in the House of Representatives by Representative TAUZIN. It has certainly been worked on and helped immensely by Speaker GINGRICH, by Congressman HYDE and by Senator JEFFORDS. It is a bill which I believe will do some justice in regard to a great tragedy. It is a great tragedy that has afflicted thousands and thousands of Americans through literally no fault of their own. These are hemophiliacs who received tainted blood. Many of them have died as a result of that. Many of them are suffering today, and their families are suffering. They have tremendous expenses. They have the normal expenses of being hemophiliac and on top of that they now have AIDS. The reason for this bill is to correct this injustice. The injustice was that the Federal Government was simply not vigilant, did not do what it should have done to protect the precious blood supply of this country.

Those of us who have worked on this bill for the last several years, I think, have felt this was not just another bill in the Congress. We have seen and we have talked firsthand to the families who have suffered. I met in my office with a man from Ohio whose son died. His son died because of this tainted blood. As the father, one of the caregivers of this child who had hemophilia, he was the one who had to administer the blood. To talk to this father, with tears in his eyes, in my office, was something I will never forget. This bill will not bring his son back. It will not bring back those who have died. But what it will do for those families is give them some compensation,

some help to deal with their medical expenses. Equally important, it will be a very clear signal to them and to the country that when a mistake is made, when the Government does not do what it should do, when people suffer as they have suffered, that justice will be done. This bill is about justice.

It is now on its way to the President. Again, I thank all of those who have been involved in this: Senator LOTT, Senator JEFFORDS, Congressman HYDE, Senator BOB GRAHAM, PORTER GOSS in the House, the prime sponsor in the House, as well as Speaker GINGRICH.

DRUG INTERDICTION

Mr. DEWINE. Mr. President, I will now take a moment to discuss one of the most important accomplishments of this Congress. It is an accomplishment that occurred about 4½ hours ago. Back in July, I, along with a bipartisan, bicameral core group of legislators, came to the floor and introduced a bill that called for a major new effort to restore a balance to our drug interdiction and eradication efforts. Today, just this morning, after a few short months, this important effort has been included in the omnibus bill that we passed. It is included in the bill that is being sent to the President and that, with his signature, will then become law.

This bill, this effort, is about restoring balance to America's antidrug efforts. Restoring balance to America's antidrug effort is a major accomplishment of this Congress. It is vitally important to the future of America's children. Our drug interdiction efforts, keeping drugs out of this country, are lagging way behind where they ought to be. Drugs are far too plentiful, far too easy to find, far too cheap, far too easy to obtain. It is so easy. The amount of drugs in our country is at an unprecedented high level.

Back in the 1980s and 1990s we used to have a balanced antidrug strategy. We provided the right balance of resources to fight drugs. What do I mean by balance? I think we have to take a multifaceted approach to the drug problem. We have to have treatment for those who need that and who are willing to go into treatment. We have to have education and other methods to stop people from starting drugs. We have to have domestic law enforcement, most of which is handled at the local level but, of course, it also includes the DEA and the FBI. And, we also have to have international drug interdiction, stopping drugs from leaving the source countries—Peru, Bolivia and Colombia—stopping them on the high seas, stopping them at the border. We have to have all four components. What this bill does is restores that balance, or a better way of saying it, frankly, a more accurate way of saying it, is it begins to restore this balance.

This effort is not just about providing resources. It is demonstrating, rather, the will to stop drugs before they reach our borders. This is not just about dollars. It is not just about dollars and cents. It is also about leadership. It is the Federal Government's—our—responsibility, and the Federal Government's alone to stop drugs at the source or in transit to our borders. In the other areas, where we talk about treatment, or domestic law enforcement, prevention, education, all of these are shared responsibilities of the local communities and the State and the Federal Government and the private sector and the nonprofit groups. But when we talk about drug interdiction, that is the one thing that nobody else can do but the Federal Government. That is our responsibility and the buck does, in fact, stop here.

It is the Federal Government's responsibility, and the Federal Government's alone, to stop drugs at the source or in transit to our borders. I have seen it firsthand. I have been to the Caribbean, I have been to the Bahamas, I have been off the coast of Haiti and off the coast of the Dominican Republic. I have been along the border in El Paso. I have been into New Mexico. I have talked directly to the men and women of this great country who are fighting this war. We have great people who are doing that. I have seen firsthand that what we are currently providing to uphold this responsibility is simply not enough. It is, frankly, inadequate. Just as we need military readiness to defend America against war, we need drug interdiction readiness to defend America against drugs.

We do know how to do it. We do know how to do it. We have great people. We got our ideas for this legislation from the experts, from men and women of key agencies such as the Coast Guard, Customs, DEA. That is where the ideas for this legislation that will now become law came from. Their resources have been dramatically reduced, tragically, in recent years. This bill begins—and I say begins—to fix this problem by providing the very resources they need. We could not be here today without their assistance.

This was a bipartisan effort. We worked with both sides of the aisle. We had Gen. Barry McCaffrey's involvement and his help and cooperation and assistance. Today we certainly can be proud of this victory, but today is just the first step. We have a long way to go to restore this balance. We will be back next year to continue this war. But make no mistake about it, this bill is a major step towards keeping drugs out of our country. This bill will mean more planes in the air, more ships at sea, less drugs on the streets of America. We are back in the business of putting the drug lords out of business.

I thank my good friend, BILL MCCOLLUM, Congressman MCCOLLUM from Florida, for leading this effort in the House of Representatives. I thank DENNY HASTERT, chairman of the Speaker's drug task force, who did a remarkable job in securing close to $700 million to get this initiative started. I also thank our bipartisan core group on drug interdiction—Senators PAUL COVERDELL, BOB GRAHAM, AL D'AMATO, DIANNE FEINSTEIN, LAUCH FAIRCLOTH, and of course PORTER GOSS, CHUCK GRASSLEY and KIT BOND.

The Speaker of the House, NEWT GINGRICH, and Majority Leader TRENT LOTT, both were absolutely instrumental in getting this included in the budget package that we just passed. But for them it simply would not have happened, and we know that.

The two chairmen of the Appropriations Committees, Senator TED STEVENS and Congressman BOB LIVINGSTON, deserve our thanks for taking the lead to include our initiative in their omnibus bill.

This legislation will make a huge difference in our efforts to win back America's future from the drug lords. It is just the beginning to restore the balance but it is a major, significant beginning. It is a major victory. I thank my colleagues who worked so very hard on this.

AFRICA: SEEDS OF HOPE ACT

Mr. DEWINE. Mr. President, I would like now to turn the Senate's attention to a very important foreign policy, as well as humanitarian, measure, a measure that has also been passed by the Congress. I am referring to the Africa: Seeds of Hope Act.

Back in July, Senator SARBANES and I introduced legislation on the Senate floor to promote small-scale agricultural and rural development in Africa, a bill cosponsored in the House of Representatives by our colleagues, DOUG BEREUTER and LEE HAMILTON, a bipartisan effort, a bill that will save lives, a bill that will help people help themselves.

The Africa: Seeds of Hope Act represents a commitment to seek ways to help farmers in sub-Saharan Africa through sustainable agriculture, research, rural finance and extension projects. The bill will also recognize important benefits such overseas agricultural advances could hold for America's farmers. The Senate and House have both passed the bill. It is now on its way to the President.

We need to sow seeds of hope in Africa. There are a vast number of people in Africa who go each day without the necessary nourishment that we in our country take for granted. In many parts of Africa, women and children struggle daily to find the food that will barely sustain them for another day.

The problem in Africa has worsened over the last 30 years, and this is in spite of the fact that in many parts of the world the situation is getting better, and in Africa it is getting worse. The number of Africans who are unable to produce the food and provisions they need to lead healthy, productive lives is tragically rising. According to the Food and Agriculture Organization, around 215 million people are undernourished in sub-Saharan Africa, and

this number is expected to increase—increase dramatically—into the next century.

Food is the basic necessity of life. It is an unfortunate reality that many of the African people lead lives of needless suffering because they don't have the skills and tools necessary to help themselves. As a result, many African countries are dependent on the outside world for humanitarian assistance and basic nutrition. These countries import a large percentage of the food they consume. Africa's food imports are projected to rise from less than 8 million metric tons in 1990, to more than 25 million metric tons by the year 2020. Mr. President, this is a very, very dangerous trend, and it must be changed, it must be reversed.

The bill we just passed is based on the insight that the most effective way to improve conditions for Africa's poor is to increase the productivity of their agricultural sector. Whenever I travel to developing countries, I always like to spend time looking at that country's agricultural sector. I have seen firsthand in many countries that their rural areas can succeed through agricultural development and through the right kind of assistance, the assistance that uses the expertise that we have in this country at our universities, the expertise that we have among our farmers, to share that knowledge and that know-how.

About 70 percent of Africa's poor live in rural areas. That is where the major problem is, and that is where this bill can make a difference, because not only do we want to see and help these individuals in rural areas feed themselves, we also understand that if they cannot feed themselves, what they do is move to the cities. When they move to the cities, many times the conditions are even worse than the conditions they left in the rural areas. It is a trend we see worldwide, and it is a trend that is very, very dangerous. It breeds instability, and it breeds other problems.

Rural and agricultural markets play a critical role in the majority of the African workforce. It has been reported that 70 percent of African employment is in the agricultural market. If we are serious about opening up new trade relations with the continent—and we should be—then we need to be aggressive in helping to strengthen the foundation for their survival.

Let me outline a few highlights of this bill.

This legislation first encourages agencies and organizations to make rural development issues a priority by teaching effective farming methods to small-scale African farmers and entrepreneurs. This is people to people, farmer to farmer and not dealing with many of these governments.

It provides African small farmers and entrepreneurs with improved access to credit and other resources necessary to stimulate production in microenterprise.

It mobilizes new resources for investment in African agriculture and rural development through the U.S. Overseas Private Investment Corporation.

It facilitates the coordination of national and international agricultural research and extension efforts aimed at developing the skills of African researchers, African extension agents, farmers and agribusiness people. In fact, the bill would allow American universities to play a pivotal role in this effort.

Finally, this bill requires the U.S. Agency for International Development, when providing nonemergency assistance through the Public Law 480 title II programs, to include assistance programs for people who are otherwise unable to meet their basic food needs, including feeding programs for the disabled, for the orphaned, for the elderly, for the sick and for the dying.

African farmers and the African people are in dire need of agricultural development. This bill can help them gain the knowledge they need for this important development. At the same time, the legislation will help our own agricultural producers by opening new export markets for American farmers, especially those who deal with value-added goods.

Mr. President, as the economies in sub-Saharan Africa develop, their citizens' incomes will increase, thus raising their standard of living. In turn, they will be in a better position to purchase a new variety of goods, including American agricultural commodities and equipment. This is where our export markets can flourish. As a citizen of Ohio, I am excited at the export prospects for the hard-working farmers of my own State.

Another significant point to consider is that food stability is a critical factor in preventing civil strife within nations. Our investment in international agriculture and rural development will help reduce demands for U.S. disaster and famine relief.

International agricultural development assistance has depleted over time. In fact, over the past decade alone, money for this program has dropped by 70 percent. We should refocus our efforts in this important program, and this bill will do that.

Under this bill, USAID will be called upon to use its resources for programs and improved food security and agricultural productivity for African farmers.

This legislation has the ability to make a real difference in the lives of real people. As a compassionate Nation, we should want to aid those less fortunate to better help themselves. The bill will help these individuals make important progress in meeting human needs. In passing this bill, the U.S. Congress has done some very important work, and I congratulate my colleagues for the bill as we send it on its way to the President.

AN ATROCITY IN WYOMING

Mr. DEWINE. Mr. President, if I can turn to a much sadder topic. One of the saddest duties of public life is having to express moral truths. It is sad because it should be unnecessary. Thomas Jefferson two centuries ago enunciated some truths that he said ''we hold to be self-evident.'' We hold to be self-evident.

It should be self-evident that in a country of liberty, a country of rule of law and respect for human rights that we should condemn the murder of any human being. We should, as a logical consequence of this principle, condemn the murder of people who have killed because the murderers disapprove of some aspect of the murder victim's personal life.

That is why our national attitude toward the atrocity that took place in Laramie, WY, on October 7 is so very important.

Let us all, as Americans, leave no doubt that the murder of young Matthew Shepard was a vicious, despicable crime. Again, it should—I repeat—should be self-evident. But Mr. President, I have seen news reports that protesters, demonstrators, hecklers went to this young man's funeral to spew hatred and venom. Some might say their demonstrations are protected by the first amendment, and that may or may not be true—and I am not going to deal with that and talk about that today—but what I wish to underscore today is that I, too, have first amendment rights—we all do—a right to tell the truth about these demonstrators' conduct. And to do so, polite phrases might not be enough.

So let's make it very clear: The people who committed this crime are despicable, they are scum. And the people who intruded on the privacy of this poor family, the family of the deceased, the people who intruded on their privacy at that hour of sorrow, to mock the deceased, mock this young man, these people who did this are lowlifes—they should be condemned by all Americans. They deserve the contempt of all civilized people.

Mr. President, I see that my colleague from Virginia has been on the floor for some time. I also note the majority leader may be coming back at any moment. I would advise my colleague, the majority leader, as well as my colleague from Virginia, that I have some additional comments about another topic that would be fairly extensive. I would be more than happy to yield at this point, either to the majority leader or to my colleague from Virginia, just with the understanding that I will have the opportunity before the Senate does go out of session for the year to make these comments.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Virginia.

Mr. ROBB. Mr. President, I appreciate the consideration of my colleague, the Senator from Ohio. I had planned to yield to the majority leader.

He had said that he was going to return to finish his wrapup. And, indeed, if he is ready to do so now, I will yield; otherwise, I will take advantage of this opportunity to make a few comments about the vote that we concluded this morning.

Mr. DEWINE. If I could reclaim my time, just for a moment —and the majority leader I do not think was on the floor when I made the comment—I advised my friend from Virginia, as well as the majority leader, that I do have some additional comments about a separate issue. I know the majority leader needs to do the final wrapup. I am not sure whether he is ready to do that.

Mr. LOTT. We are, I believe, ready to move through a number of nominations if you would allow me to proceed at this point.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now go into executive session and that the Senate proceed, en bloc, to the following nominations on the executive calendar: Nos. 597, 718, 733, 734, 735, 738, 783, 784, 785, 786, 787, 793, 797, 798, 799, 800, 801, 802, 805, 806, 807, 809, 811, 812, 813, 814, 815, 818, 819, 820, 821, 822, 823, 851, 852, 854, 855, 857, 861, 862, 865, 866, 867, 869, 870, 871, 886, 887, 888, 889, 890, 891, 892, 893, 895, 896, 897, 898, 899, 900, 901 through 914, 916 through 926.

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

The nominations considered en bloc are as follows:

STATE JUSTICE INSTITUTE

Arthur A. McGiverin, of Iowa, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2000.

THE JUDICIARY

Jose de Jesus Rivera, of Arizona, to be United States Attorney for the District of Arizona for the term of four years.

DEPARTMENT OF STATE

Bert T. Edwards, of Maryland, to be Chief Financial Officer, Department of State.

David G. Carpenter, of Virginia, to be an Assistant Secretary of State.

David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

Mary Beth West, of the District of Columbia, a Career Member of the Senior Executive Service, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans, Fisheries, and Space.

EXECUTIVE OFFICE OF THE PRESIDENT

Rebecca M. Blank, of Illinois, to be a Member of the Council of Economic Advisers.

THE JUDICIARY

Rebecca R. Pallmeyer, of Illinois, to be United States District Judge for the Northern District of Illinois.

Nora M. Manella, of California, to be United States District Judge for the Central District of California.

Jeanne E. Scott, of Illinois, to be United States District Judge for the Central District of Illinois.

David R. Herndon, of Illinois, to be United States District Judge for the Southern District of Illinois.

ENVIRONMENTAL PROTECTION AGENCY

Nikki Rush Tinsely, of Maryland, to be Inspector General, Environmental Protection Agency.

THE JUDICIARY

Alvin K. Hellerstein, of New York, to be United States District Judge for the Southern District of New York.

Richard M. Berman, of New York, to be United States District Judge for the Southern District of New York.

Donovan W. Frank, of Minnesota, to be United States District Judge for the District of Minnesota.

Colleen McMahon, of New York, to be United States District Judge for the Southern District of New York.

William H. Pauley III, of New York, to be United States District Judge for the Southern District of New York.

Thomas J. Whelan, of California, to be United States District Judge for the Southern District of California.

DEPARTMENT OF JUSTICE

Robert Bruce Green, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

Scott Richard Lassar, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years.

James A. Tassone, of Florida, to be United States Marshal for the Southern District of Florida for the term of four years.

DEPARTMENT OF LABOR

Henry L. Solano, of Colorado, to be Solicitor of the Department of Labor.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2003, vice Velma Montoya, term expired.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Joseph E. Stevens, Jr., of Missouri, to be a Member of the Board of Trustees of the Harry S Truman Scholarship foundation for a term expiring December 10, 2003. (Reappointment)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2002, (Reappointment), to which position he was appointed during the last recess of the Senate.

Ida L. Catro, of New York, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2003.

Paul Steven Miller, of California, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1999.

ENVIRONMENTAL PROTECTION AGENCY

Romulo L. Diaz, Jr., of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

J. Charles Fox, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency.

Norine E. Noonan, of Florida, to be an Assistant Administrator of the Environmental Protection Agency.

MORRIS K. UDALL SCH. & EXCELLENCE IN NATL ENV. POLICY FOUNDATION

Terrence L. Bracy, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy for a term expiring October 6, 2004. (Reappointment)

DEPARTMENT OF THE INTERIOR

Charles G. Groat, of Texas, to be Director of the United States Geological Survey.

DEPARTMENT OF DEFENSE

Bernard Daniel Rostker, of Virginia, to be Under Secretary of the Arm.

THE JUDICIARY

Patricia A. Broderick, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF COMMERCE

Kenneth Prewitt, of New York, to be Director of the Census.

THE JUDICIARY

Natalia Combs Greene, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Neal E. Kravitz, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

FARM CREDIT ADMINISTRATION

Michael M. Reyna, of California, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for a term expiring May 21, 2004.

DEPARTMENT OF TRANSPORTATION

Eugene A. Conti, Jr., of Maryland, to be an Assistant Secretary of Transportation.

Peter J. Basso, Jr., of Maryland, to be an Assistant Secretary of Transportation.

NUCLEAR REGULATORY COMMISSION

Greta Joy Dicus, of Arkansas, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2003. (Reappointment)

Jeffrey S. Merrifield, of New Hampshire, to be a Member of the Nuclear Regulatory Commission for the term expiring June 30, 2002.

DEPARTMENT OF ENERGY

David Michaels, of New York, to be an Assistant Secretary of Energy (Environment, Safety and Health).

DEPARTMENT OF VETERANS AFFAIRS

Eligah Dane Clark, of Alabama, to be Chairman of the Board of Veterans' Appeals for a term of six years.

Edward A. Powell, Jr., of Virginia, to be an Assistant Secretary of Veterans Affairs (Management).

Leigh A. Bradley, of Virginia, to be General Counsel, Department of Veterans Affairs.

THE JUDICIARY

Lawrence Baskir, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Robert S. Lasnik, of Washington, to be a United States District Judge for the Western District of Washington.

Yvette Kane, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

James M. Munley, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Lynn Jeanne Bush, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

David O. Carter, of California, to be United States District Judge for the Central District of California.

Francis M. Allegra, of Virginia, to be Judge of the United States Court of Federal Claims for a term of fifteen years.

Margaret B. Seymour, of South Carolina, to be United States District Judge for the District of South Carolina.

Aleta A. Trauger, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Alex R. Munson, of the Northern Mariana Islands, to be Judge for the District Court for the Northern Mariana Islands for a term of ten years (Reappointment)

Edward J. Damich, of Virginia, to be Judge of the United States Court of Federal Claims for a term of fifteen years.

Nancy B. Firestone, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Emily Clark Hewitt, of Massachusetts, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Norman A. Mordue, of New York, to be United States District Judge for the Northern District of New York.

DEPARTMENT OF JUSTICE

Donnie R. Marshall, of Texas, to be Deputy Administrator of Drug Enforcement.

Harry Litman, of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years.

Denise E. O'Donnell, of New York, to be United States Attorney for the Western District of New York for the term of four years.

Margaret Ellen Curran, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

Byron Todd Jones, of Minnesota, to be United States Attorney for the District of Minnesota for the term of four years.

ENVIRONMENTAL PROTECTION AGENCY

Robert W. Perciasepe, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency. (Reappointment)

MISSISSIPPI RIVER COMMISSION

William Clifford Smith, of Louisiana, to be a Member of the Mississippi River Commission for a term expiring October 21, 2005.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Isadore Rosenthal, of Pennsylvania, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Andrea Kidd Taylor, of Michigan, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ira G. Peppercorn, of Indiana, to be Director of the Office of Multifamily Housing Assistance Restructuring. (New Position)

William C. Apgar, Jr., of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

Saul N. Ramirez, Jr., of Texas, to be Deputy Secretary of Housing and Urban Development.

Cardell Cooper, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

Harold Lucas, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Patricia T. Montoya, of New Mexico, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

David C. Williams, of Maryland, to be Inspector General, Department of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Sylvia M. Mathews, of West Virginia, to be Deputy Director of the Office of Management and Budget.

DEPARTMENT OF ENERGY

Gregory H. Friedman, of Colorado, to be Inspector General of the Department of Energy.

OFFICE OF PERSONNEL MANAGEMENT

John U. Sepulveda, of New York, to be Deputy Director of the Office of Personnel Management.

FEDERAL LABOR RELATIONS AUTHORITY

Joseph Swerdzewski, of Colorado, to be General Counsel of the Federal Labor Relations Authority for a term of five years. (Reappointment)

DEPARTMENT OF THE INTERIOR

Eljay B. Bowron, of Michigan, to be Inspector General, Department of the Interior.

POSTAL RATE COMMISSION

Dana Bruce Covington, Sr., of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2004.

Edward Jay Gleiman, of Maryland, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2004.

GENERAL ACCOUNTING OFFICE

David M. Walker, of Georgia, to be Comptroller General of the United States for a term of fifteen years.

INST. OF AMERICAN INDIAN & ALASKA NATIVE CULTURE & ARTS DEV.

D. Bambi Kraus, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2004.

JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, this Congress has taken steps to significantly reduce the Federal judicial vacancy rate to its lowest level in almost a decade. As Chairman of the Judiciary Committee, I am proud to boast about some of the successes that have been achieved this Congress by the Committee and Republican Senate. I also feel compelled to set the record straight that the Committee and Republican Senate this Congress have been dedicated and productive.

One could speculate that if the Democrats controlled the Senate, more Clinton nominees would have been confirmed. But then again, maybe not. This Congress, the Committee held hearings for 111 out of 127 judicial nominees. Of the 16 nominees that did not have hearings, 3 withdrew from consideration. The Committee held 23 judicial, and an additional 8 non-judicial, nominations hearings for a total of 31 nominations hearings. In all, this Congress the Republican Senate confirmed 101 judicial nominees, which is well above the average confirmed over the last five Congresses, which is 96. Indeed, notwithstanding the rhetoric we often heard from the other side of the aisle, according to the Alliance for Justice, a liberal judicial watch group, almost 50% of the judges confirmed by the Republican Senate have been women and/or members of a minority group.

The Republican Senate, by working in a fair and orderly manner, also reduced the vacancy rate of the Federal Judiciary to 5.9%—the lowest vacancy rate since the Judiciary was expanded in 1990. While considering this rate, keep in mind two things: first, that the Clinton Administration is on record as having stated that a vacancy rate just over 7% is virtual full-employment of the judiciary, and second, that the Clinton Administration did not get around to nominating anyone for 29 of the 50 vacant judgeships. To put it another way, this Administration failed to nominate anyone for almost 60% of the current judicial vacancies. Thus, the Republican Senate would have been precluded from filling every single judicial vacancy because it cannot confirm judges whose nominations it has not received.

The accusation that the Republican Senate delays consideration of certain nominees is simply a ploy to divert attention away from the fact that qualified, non-controversial nominees, which constitutes the overwhelming majority of nominees, were confirmed promptly, usually by unanimous consent. Indeed, one need go no further than the high number of Clinton Administration nominees that were confirmed by this year's Republican Senate to determine whether their motives were anything but altruistic.

Yes, there were some controversial nominees that did not move, and in fact, some of these nominees were forced to withdraw. But the confirmation process is not a numbers game, and I will not compromise the Senate's advice and consent function simply because the White House has sent us nominees that are either not qualified or controversial. There are a range of factors which make a nominee controversial or difficult to confirm, such as lack of experience or questionable information contained in materials not in the public domain or in their past records that may be at variance with the proper role of judges in society. But I assure you that gender, ethnicity, and race are not included in the determination.

For me, the touchstones in evaluating the qualifications of a nominee are whether they are committed to upholding the rule of law and properly understand the limitations of the judicial role. The Senate has an obligation to the American people to review thoroughly the records of the nominees it receives to ensure that they are capable and qualified to serve as Federal judges and will not spend a lifetime career rendering politically motivated decisions. I would not, in good conscience, vote for the confirmation of any nominee whom I believed would abdicate his or her duty to interpret and enforce, and instead make, the laws of this Nation.

As Committee Chairman, I take my role in the confirmation of judges very seriously, and would not allow irrelevant criteria to be analyzed in determining a nominee's fitness to sit on the Federal bench, practically speaking, for what amounts to life tenure. As a Senator, I take my role of advice and consent equally as serious and would not tolerate the disingenuous consideration of any nominee.

The demagogues and naysayers can continue to impugn the purported secret motives of the Republicans and

continue to malign those who exercise their Constitutional duty to thoroughly evaluate and review the complete record and background of each nominee before casting a vote in favor or in opposition thereto. And the Republican Senate will continue to plow ahead in the next Congress honorably and fairly discharging its Constitutional duties without wavering. However, I could not leave this Congress without congratulating my fellow Republican Senators, Senator LOTT in particular, for all of their hard work and accomplishments in what, at times, has been a contentious atmosphere. Senator LOTT has done his best and has acted in a fair and principled manner in processing these nominees. He is to be commended.

Mr. LEAHY. Mr. President, as the Senate concludes this second session of the 105th Congress, I want to take a moment to thank Senator HATCH, the Chairman of the Senate Judiciary Committee, for working with us to confirm judges desperately needed around the country. He pressed forward with three confirmation hearings in October, which resulted in sending another nine judicial nominees to the Senate calendar. He supported each of the nominees confirmed by the Senate this year and worked hard to clear judicial nominees reported by the Committee for action by the Senate. I also thank the Majority Leader for proceeding to consider the judicial nominations confirmed in these last days of the session.

For the year, the Senate confirmed 65 federal judges to the District Courts and Courts of Appeals around the country and to the Court of International Trade. In addition, we confirmed a number of judges to the United States Court of Claims and to the court for the Northern Mariana Islands.

Senator HATCH is fond of saying that the Senate could do better. I agree with him and hope that we will continue to do better next year. I began this year challenging the Senate to maintain that pace it established in the last nine months of last year. Had we done so, we could have confirmed 90 judges. Instead, the Senate has acted to confirm only 65 of the 91 nominations received for the 115 vacancies the federal judiciary experienced this year.

Together with the 36 judges confirmed last year, the total number of article III federal judges confirmed during this Congress to a 2-year total of 101—the same total that was confirmed in one year when Democrats made up the majority of the Senate in 1994. The 104th Congress (1995–96) resulted in a 2-year total of only 75 judges being confirmed. By way of contrast, I note that during the last two years of the Bush Administration, even including the presidential election year of 1992, a Democratic Senate confirmed 124 federal judges.

Meanwhile 50 judicial vacancies remain. This is one of the largest number of vacancies left unfilled at the end of a Congress. In 1983 vacancies numbered only 16. Even after the creation of 85 new judgeships in 1984, the number of vacancies had been reduced to only 33 by the end of the 99th Congress in 1986. At the end of the 100th Congress in 1988, which had a Democratic majority and a Republican president, judicial vacancies numbered only 23. In 1996 the Republican Senate adjourned leaving 64 judicial vacancies. This year the Senate is adjourning leaving 50 judicial vacancies and the number is likely to increase during the recess.

Moreover, the Republican Congress has refused to consider the authorization of the additional judges needed by the federal judiciary to deal with their ever increasing workload. In 1984 and in 1990, Congress did respond to requests for needed judicial resources by the Judicial Conference. Indeed, in 1990, a Democratic majority in the Congress created judgeships during a Republican presidential administration. Last year the Judicial Conference of the United States requested that an additional 53 judgeships be authorized around the country. If Congress had passed the Federal Judgeship Act of 1997, S.678, as it should have, the federal judiciary would have 103 vacancies today. That is the more accurate measure of the needs of the federal judiciary that have been ignored by the Congress over the past several years.

In order to understand why a judicial vacancy crisis is plaguing so many federal courts, we need only recall how unproductive the Republican Senate has been over the last three years. More and more of the vacancies are judicial emergencies that have been left vacant for longer periods of time. The President has sent the Senate qualified nominees for 23 of the current judicial emergency vacancies, 15 of those nominations that are still pending as the Senate prepares to adjourn.

In his 1997 Year-End Report, Chief Justice Rehnquist focussed on the problem of ''too few judges and too much work.'' He noted the vacancy crisis and the persistence of scores of judicial emergency vacancies and observed: ''Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote.'' He went on to note: ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.''

During the entire 4 years of the Bush administration there were only three judicial nominations that were pending before the Senate for as long as 9 months before being confirmed and none took as long as a year. In 1997 alone there were 10 judicial nominations that took more than 9 months before a final favorably vote and 9 of those 10 extended over a year to a year and one-half. Of the judges confirmed this year, Professor Fletcher's confirmation took 41 months—the longest-pending judicial nomination in the history of the United States—Hilda Tagle's confirmation took 32 months, Susan Oki Mollway's confirmation took 30 months, Ann Aiken's confirmation took 26 months, Margaret McKeown's confirmation took 24 months, Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Rebecca Pallmeyer's confirmation took 14 months, Dan Polster's confirmation took 12 months, and Victoria Roberts' confirmation took 11 months.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1996, the Republican Senate shattered the record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. Last year, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days. Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. This year the Senate will break last year's record. The average time from nomination to confirmation for the 65 judges confirmed this year was over 230 days.

In addition, nominations are being forced to sit on the Senate Executive Calendar for longer and longer periods of time. Unlike earlier days in the Senate when nominees were not made to wait for weeks and months on the Senate calendar before they could be considered, that is now becoming the rule. Margaret Morrow, Sonia Sotomayor, Richard Paez, Ronnie White, Patrick Murphy and Michael McCuskey each spent more than four months on the Senate Executive Calendar awaiting action.

Further, this Congress is concluding with four judicial nominations that have been favorably reported by the Judiciary Committee still pending on the Senate Executive Calendar. Two were reported without objection by unanimous consent. I do not know why Justice Ronnie L. White and Judge William J. Hibbler, two outstanding African-American nominees are being held on the Senate calendar without a vote. I regret that the Majority Leader was unable to call up for a vote the nomination of Judge Richard Paez to the Ninth Circuit or the nomination of Timothy Dyk to the Federal Circuit.

Most Congresses end without any judicial nominations left on the Senate Executive Calendar. Indeed the 99th, 101st, 102nd, and 103rd Congresses all ended without a single judicial nomination left on the Senate calendar. The Democratic Senate majority in the two Congresses of the Bush Administration ended both those Congresses, the 101st and 102nd, without a single judicial

nomination on the calendar. By contrast, the Republican Senate majority in the last Congress, the 104th, left an unprecedented seven judicial nominations on the Senate Executive Calendar at adjournment without Senate action. The 105th Congress is concluding with four qualified judicial nominees being denied action by the Senate.

At each step of the process, judicial nominations are being delayed and stalled. Judge Richard Paez, Justice Ronnie L. White, Judge William J. Hibbler and Timothy Dyk are being denied consideration by the Senate. Marsha Berzon, Anabelle Rodriquez, Clarence Sundram, and Matthew Kennelly were each denied a vote before the Judiciary Committee following a hearing. Judge James A. Beatty, Jr., Helene N. White, Jorge C. Rangel, Ronald M. Gould, Robert S. Raymar, Barry P. Goode, among a total of 13 judicial nominees, end this Congress without ever having received a hearing before the Judiciary Committee.

At the conclusion of the debate on the nomination of Merrick Garland to the United States Court of Appeals for the District of Columbia, as 23 Republicans were preparing to vote against that exceptionally well-qualified nominee whose confirmation had been delayed 18 months, Senator HATCH said ''playing politics with judges is unfair, and I am sick of it.'' I agree with him. I look forward to a return to the days when judicial nominations are treated with the respect and attention that they deserve.

NOMINATION OF EDWARD J. DAMICH

Mr. HATCH. Mr. President, today the Senate will confirm the nomination of Edward J. Damich to be a judge on the Court of Federal Claims. Mr. Damich has been the Chief Intellectual Property Counsel to the Judiciary Committee since 1995. He has already had a distinguished career and is highly qualified to fill this challenging position. He received an A.B. degree from St. Stephen's College in 1970, a J.D. degree from the School of Law of Catholic University in 1976, and LL.M. and J.S.D. degrees from Columbia University School of Law. Upon his graduation from law school, he joined the faculty of the Delaware Law School of Widener University as a Professor of Law where he remained until 1984. From 1984–95, he was a Professor of Law at the George Mason University School of Law. During 1992–1993, Mr. Damich also served as a Commissioner of the Copyright Royalty Tribunal.

Mr. Damich also has numerous accomplishments outside his professional career. He was named Outstanding Faculty Member in 1980 and 1984, and is listed in Who's Who in American Law. He has served as President of the National Federation of Croatian Americans and as a Board Member of the Washington Area Lawyers for the Arts. He is also widely published in both the acadmic and professional forums.

His hard work and intellect has made him a true asset to the Committee, and his presence will be missed. I am confident that he will make a terrific judge, and I wish him all the luck in this very important stage of his career.

Mr. THURMOND. Mr. President, I wish to express my support for the nomination of Edward Damich to the U.S. Court of Federal Claims. I believe he is a fine choice for this important position.

Before joining the staff of the Senate Judiciary Committee in 1995 as Chief Intellectual Property Counsel, Mr. Damich served as a Commissioner of the Copyright Arbitration Royalty Panel. In that capacity, he was involved in numerous copyright issues, including the proper distribution of millions of dollars in copyright licensing fees. Further, for many years, he served as a Professor of Law in the area of intellectual property, first at Delaware Law School and later at the George Mason University School of Law in Virginia.

Mr. Damich has been an asset to the Senate Judiciary Committee in recent Congresses. He is a strong supporter of property rights and has brought a wealth of knowledge of intellectual property law to his work. He has played an important supporting role on many important pieces of legislation in this area, including most recently the Digital Millennium Copyright Act.

Mr. Damich is well qualified to serve on the Court of Claims, and I am pleased to support his nomination.

JUDGE NORMAN A. MORDUE

Mr. MOYNIHAN. Mr. President, I am very pleased that the Senate has confirmed Norman A. Mordue to the bench of the United States District Court for the Northern District of New York.

Norman Mordue is a distinguished and competent jurist, having previously served as an assistant district attorney and county judge. He is now a New York Supreme Court justice. He is also a war hero. He earned this country's second highest military honor, the Distinguished Service Cross for Extraordinary Heroism, while serving as an infantry platoon leader with the 1st Air Cavalry Division in Vietnam.

Judge Mordue has been active in many New York State Bar activities—he is a presiding officer in the Bar's judicial section and a continuing legal education lecturer—and he has been elected by his peers to head the Supreme Court Justices' Association. I have every confidence that he will make an excellent addition to the federal judiciary.

NOMINATION OF MARGARET SEYMOUR

Mr. THURMOND. Mr. President, I wish to express my strong support for Judge Margaret Seymour, President Clinton's nominee to be a United States District Judge for the District of South Carolina. Judge Seymour will replace Judge William Traxler, an excellent jurist who I recommended to the President for the District Court and who has just been elevated to the Fourth Circuit Court of Appeals.

Judge Seymour had a varied legal career in the private sector and in government service before becoming an Assistant United States Attorney in South Carolina in 1990. During four of her six years in the U.S. Attorney's office, she was Chief of the Civil Division. Also, she twice served as Interim United States Attorney, once in 1993 and again in 1996.

She was appointed a United States Magistrate Judge for the District of South Carolina in 1996, where she serves today. In that capacity, she is known as a diligent and fair jurist. She is also a person of character and integrity.

I am very pleased to support her, and I am confident she will be a very able addition to the District Court.

NOMINATION OF DENISE O'DONNELL

Mr. MOYNIHAN. Mr. President, I am delighted that the Senate will confirm Denise O'Donnell to be the United States Attorney for the Western District of New York. She now becomes the first woman in the history of the 17-county Western District to be chief federal prosecutor. No woman before has ever had a presidential appointment in the district to one of the top three justice posts: judge, prosecutor or federal marshall.

Ms. O'Donnell is a career Assistant U.S. Attorney. She came to the Western District in 1985 as an Assistant U.S. Attorney and was named First Assistant in 1993. She has served as Interim U.S. Attorney since September 1997. In addition, she was a part-time instructor in the the Trial Technique Program at her alma mater, the State University of New York at Buffalo Law School. She graduated summa cum laude from that institution and was the senior editor of its law review.

During her distinguished career as a prosecutor, Ms. O'Donnell has handled a host of complex criminal matters, including cases involving RICO, tax fraud, narcotics, and violent crimes. She is also an active participant in her local and state bar organizations and, last year was the Women Lawyers Association Lawyer of the Year.

I am confident that Ms. O'Donnell will serve with the highest distinction.

NOMINATION OF MARGARET E. CURRAN

Mr. CHAFEE. Mr. President, today the Senate will consider the nomination of Margaret E. Curran as U.S. Attorney for the District of Rhode Island. I wholeheartedly support Ms. Curran's nomination and appreciate its speedy consideration by the Judiciary Committee. It certainly is noteworthy that Ms. Curran will be the first woman to serve as U.S. Attorney for Rhode Island in the more than two hundred years that this position has existed.

Ms. Curran has served as Interim U.S. Attorney since May. She has proven herself to be a thoughtful, competent, and qualified federal prosecutor. I have every confidence that she will continue to do a fine job as the chief federal law enforcement office in Rhode Island. An editorial in the Providence Journal said of Ms. Curran:

''She has shown herself to have capacious qualities of leadership, intellectual rigor, and good humor,'' qualities that will serve her well as U.S. Attorney.

Ms. Curran has twelve years of experience as a federal prosecutor. She has earned wide regard from the legal community in Rhode Island. And she enjoys resounding support from Governor Lincoln Almond, who, for twenty years, held the position she will assume.

Meg Curran is a graduate of the University of Pennsylvania and received a Master of Science Degree in anthropology from Purdue University. In 1983, she received her Law Degree from the University of Connecticut, where she served as editor-in-chief of the Connecticut Law Review. Before serving in the U.S. Attorney's office, Ms. Curran was clerk to the Honorable Bruce M. Selya, U.S. District Court for the District of Rhode Island and for the Honorable Thomas J. Meskill, U.S. Court of Appeals for the Second Circuit. She is a member of the Rhode Island Bar Association, serves on the Federal Branch-Bar Committee, as well as the Roger Williams American Inn of Court, the First Circuit Gender Bias Task Force, and the American Law Institute. Also, Ms. Curran is professor of advanced criminal law at Roger Williams University Law School in Rhode Island.

I am delighted that the Senate is prepared to confirm Margaret Ellen Curran as U.S. Attorney for the District of Rhode Island.

Mr. REED. Mr. President, I rise today to commend the Senate's confirmation of Margaret Ellen Curran as U.S. Attorney for the District of Rhode Island. I am proud to have been involved in the historic nomination of this outstanding career prosecutor. A native of Providence, Meg is the first woman to serve as Rhode Island's federal attorney. Her confirmation by the U.S. Senate today sends a clear message to career federal attorneys that their work and service is valued.

Ms. Curran brings not only the necessary legal expertise and technical skill to this position, but she has also demonstrated the prosecutorial temperament necessary to carry out her significant responsibilities in a fair and judicious manner. I am confident that U.S. Attorney Curran will serve Rhode Island and its people extremely well.

Ms. Curran graduated from Pilgrim High School in Warwick. She received a B.A. degree from the University of Pennsylvania, a Master of Science from Purdue University, and her law degree from the University of Connecticut School of Law, where she was Editor in Chief of the Law Review. After graduation, Meg served as a law clerk to the Honorable Bruce Selya, then a federal district judge in Rhode Island. She nexted served a clerkship for the Honorable Thomas Meskill on the Second Circuit Court of Appeals. After her second clerkship, in 1985, Meg became an associate at the Providence law firm of Wistow & Barylick pursuing general litigation matters.

Since 1986, when she joined the U.S. Attorney's Office in Rhode Island, Meg has distinguished herself as an outstanding prosecutor. As a trail prosecutor, Meg tried a range of cases involving white-collar criminals, organized crime, illegal weapons possession, and was responsible for obtaining the largest monetary penalty, at the time, for the illegal discharge of pollutants into Narragansett Bay.

In 1990, Meg was appointed as the district's Principal Appellate Attorney and Appellate Chief. In that position she has had primary responsibility for all appeals. As Appellate Chief she has successfully pursued precedent setting cases involving both mandatory sentencing for career criminals as well as heightened penalties for dealers of dangerous drugs.

Meg has proven herself an accomplished trial and appellate attorney, and, for this, she has been recognized. She has received the annual Special Achievement Awards for Sustained Superior Performance of Duty from the Department of Justice four times. In 1993, she was named the Federal Employee of the Year by the Federal Executive Council of Rhode Island. Today, the United States Senate has provided her with the ultimate recognition of a career prosecutor by confirming her as U.S. Attorney for the District of Rhode Island.

In addition to her professional service, Meg has also found time to serve her community. Since 1995, Meg has been an adjunct professor at Roger Williams University School of Law, teaching advanced criminal procedure. She is a member of the Rhode Island Bar Association and serves on the Federal Bench/Bar Committee. Meg also serves on the First Circuit Gender Bias Task Force and is a member of the Board of Trustees of the Rode Island Zoological Society.

Mr. President, I am proud to have been involved in the nomination of U.S. Attorney Curran. I wish her, her husband Michael, and their daughter Margee the very best.

CONFIRMATION OF CARDELL COOPER

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the confirmation of Cardell Cooper to be the Department of Housing and Urban Development's (HUD) Assistant Secretary for Community Planning and Development. I thank the members of the Banking Committee, Chairman D'AMATO, and Ranking Member SARBANES for moving Mr. Cooper's nomination swiftly through the Committee.

Mr. Cooper served with distinction as mayor of East Orange, New Jersey from 1990 to 1997. Prior to serving as mayor, from 1988 to 1990, Mr. Cooper was County Administrator for Essex County, where he was responsible for day-to-day management of the one of the largest and most urban counties in New Jersey.

As a mayor and county administrator, Mr. Cooper was on the front lines. His practical experience, coupled with his passion for public service, makes him an excellent choice for this post. He knows the critical difference that development programs can make to communities and their residents, and the importance of forging strong partnerships between local, state and federal governments. His commitment to local economic development programs serving our young people, such as YouthBuild, and urban environmental initiatives, such as the brownfields program, will fuel his efforts to help our urban leaders succeed. Through his work with the Conference of Mayors, he has built solid relationships with mayors across the country and enjoys bipartisan support. His endorsement by the Conference of Mayors is a testament to the leadership he has provided.

Mr. President, while professional experience and particular skills are important for effective service, Cardell Cooper has the personal strengths and attributes the Senate looks for in nominees to high posts. He is an energetic leader, with a strong work ethic and a deep commitment to public service and the mission of the Department. I can personally attest to his integrity and ability to work well within a larger organization.

Mr. President, I hope the full Senate will act expeditiously to confirm Cardell Cooper as HUD's new Assistant Secretary for Community Planning and Development.

CONFIRMATION OF HAROLD LUCAS

Mr. LAUTENBERG. Mr. President, I rise today to convey to the full Senate my overwhelming support for the confirmation of Harold Lucas to be the Department of Housing and Urban Development's (HUD) new Assistant Secretary for Public and Indian Housing. I especially want to thank Chairman D'AMATO and Ranking Member SARBANES, and all the members of the Senate Banking Committee, for moving Mr. Lucas' nomination so quickly through the Committee.

Mr. Lucas has first-hand knowledge of the challenges facing our nation's public housing authorities. Prior to his nomination, Mr. Lucas served as Executive Director of the Housing Authority of the City of Newark, New Jersey. When Mr. Lucas took hold of the reins at the Housing Authority in 1992, HUD considered it to be a ''troubled'' agency, and had given it failing grades since its creation in the 1970s. Within two years of taking over, Mr. Lucas turned things around. Last year, the agency received a 94 percent rating—an A in anyone's book—and is now considered one of the top performing housing agencies in both New Jersey and the nation.

During his tenure, Mr. Lucas tore down many dilapidated high-rise buildings and replaced them with more attractive townhouse-style housing that

provides a better quality of life for tenants and improves the neighborhoods that surround it.

Mr. Lucas' dedication to helping public housing residents achieve self-sufficiency, and his strong commitment to ensuring the safety and viability of our public housing stock, are testament to his qualifications for this position. I am confident that our nation's housing authorities will be well served by having someone as dynamic and experienced as Mr. Lucas at the helm.

Mr. President, I therefore urge the full Senate to conform, without delay, Mr. Lucas to be HUD's new Assistant Secretary for Public and Indian Housing.

COMMERCE COMMITTEE AND LABOR COMMITTEE

Mr. LOTT. I further ask unanimous consent that the Commerce Committee and the Labor Committee be immediately discharged from further consideration of the following nominations, and further that the Senate then proceed to their consideration: John Moran, Harold Creel, Ashish Sen, Anita Jones, Pamela Ferguson, and nominations in the Public Health Service.

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

The nominations considered en bloc are as follows:

COMMERCE COMMITTEE

John A. Moran, of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 2000.

Harold J. Creel, Jr., of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 20004. (Reappointment)

Ashish Sen, of Illinois, to be Director of the Bureau of Transportation Statistics, Department of Transportation, for the term of four years.

LABOR COMMITTEE

Anita K. Jones, of Virginia, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2004.

Pamela A. Ferguson, of Iowa, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2004.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Robert W. Amler, and ending Cheryl A. Wiseman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 24, 1998.

Public Health Service nominations beginning Marie A. Coffey, and ending Julia C. Watkins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 7, 1998.

NOMINATIONS OF JOHN A. MORAN AND HAROLD J. CREEL, JR., FEDERAL MARITIME COMMISSIONERS

Mr. LOTT. Mr. President, today the Senate unanimously confirmed the nominations of John A. Moran and Harold J. Creel, Jr. to serve as Federal Maritime Commissioners. John Moran will be replacing Joseph Scroggins on the Commission while Hal Creel will be serving a second term as Chairman of the FMC. I applaud the selection of these two highly qualified individuals for these important positions.

John Moran brings more than a decade of congressional and legislative experience in maritime transportation and policy to the FMC. During his nine-year tenure as a staffer in the House and Senate, John focused on a number of important maritime issues, including the Oil Pollution Act of 1990. His work on the 1990 amendments to the Shipping Act of 1984 and the 1991–1992 Advisory Commission on Conferences in Ocean Shipping (ACCOS) ensures that he is well prepared for his FMC assignment. The ACCOS process crystallized the concerns of stakeholders regarding the Shipping Act of 1984 and was a forerunner to S. 414, the Ocean Shipping Reform Act of 1998. This experience will serve John well as he assumes the shared responsibility for implementing that Act. I have great confidence in John Moran's ability and integrity.

Hal Creel has been the Chairman of the FMC for more than four years. During that time, the agency has gone from being characterized as ''obsolete'' to being hailed as a champion of free and open access to foreign trade markets. Hal deserves tremendous credit for this reversal of fortune. Through Hal's leadership, the FMC has punished unfair foreign shipping practices in Japan and is reviewing similar concerns regarding shipping practices in China and Brazil. Hal has also demonstrated the FMC's willingness to respond quickly to industry complaints regarding violations of the Shipping Act of 1984. More than 90% of all U.S. international trade is transported by ships. Maintaining a fair and open international ocean shipping system is vital to this nation's economy. Hal is clearly deserving of another term as Chairman of this crucial independent agency.

Mr. President, I would also like to take this opportunity to express my thanks to another FMC commissioner, Ming Hsu, for her long service to this agency. Ming Hsu supplies a wealth of experience in Asia-U.S. trade to the FMC. This has proven vital to addressing a number of ocean shipping concerns in this increasingly important trade lane.

With the President expected to sign the Ocean Shipping Reform Act of 1998 in the coming days, I am confident that the Federal Maritime Commission, with Hal Creel, John Moran, Ming Hus, and Del Won, is more than ready to implement this landmark legislation.

● Mr. HOLLINGS. Mr. President, I would like to take a moment to congratulate two nominees, Mr. Hal Creel and Mr. John Moran, upon their confirmation to be Federal Maritime Commissioners.

Hal Creel, a native of South Carolina and my former Senior Counsel on the Maritime Subcommittee, has been 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 oversee 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 are responsible 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.

Hal Creel also has led the Commission in its efforts to resolve unfavorable trading conditions with the Peoples 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 agency 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. He takes a personal stake in these matters and works hard to obtain industry 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 from our Nation's regulatory body. Mr. Creel provides that leadership now, and I am certain will continue to do so as the industry enters the new environment that will result from the Ocean Shipping Reform Act of 1998 passed by this body last week.

I am proud of the accomplishments and fine work Hal has done at the FMC. I am also proud that he is a native South Carolinian. He certainly has continued the fine tradition and excellence he established as a staffer and

senior counsel for the Senate Commerce Committee. His reappointment is well deserved.

I also wish to convey my support for John Moran to become a Commissioner at the FMC. John also is a former Commerce Committee counsel who served all members of that Committee with distinction. John and Hal worked together at the Committee on a bipartisan basis, slugging through tough issues and serving all of the Members well.

For my Senate colleagues who do not know Mr. Moran, his only fault is that he is not from South Carolina. He has 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.●

FOREIGN RELATIONS COMMITTEE

Mr. LOTT. I also ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations which are currently at the desk, and agreed to by both sides, and the Senate proceed to their consideration, en bloc.

The nominations considered en bloc are as follows:

Robert Patrick John Finn, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the Republic of Tajikistan.

C. Donald Johnson, Jr., of Georgia, for the Rank of Ambassador during his tenure of service as Chief Textile Negotiator.

Harold Hongju Koh, of Connecticut, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

Michael J. Sullivan, of Wyoming, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

William B. Bader, of New Jersey, to be an Assistant Director of the United States Information Agency.

R. Rand Beers, of the District of Columbia, a Career Member of the Senior Executive Service, to be an Assistant Secretary of State.

E. William Crotty, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, to the Commonwealth of Dominica, to Grenada, to St. Kitts and Nevis, Saint Lucia, and to Saint Vincent and the Grenadines.

Stuart E. Eizenstat, of Maryland, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; United States Alternate Governor of the European Bank for Reconstruction and Development.

Robert C. Felder, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

Simon Ferro, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

Alan Greenspan, of New York, to be United States Alternate Governor of the International Monetary Fund for a term of five years. (Reappointment)

Richard Henry Jones, of Nebraska, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

James Vela Ledesma, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Frank E. Loy, of the District of Columbia, to be an Under Secretary of State.

Joseph H. Melrose, Jr., of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

George Mu, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

B. Lynn Pascoe, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

Robert Cephas Perry, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

John J. Pikarski, Jr., of Illinois, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for the remainder of the term expiring December 17, 1998.

John J. Pikarski, Jr., of Illinois, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2001. (Reappointment)

Robert C. Randolph, of Washington, to be an Assistant Administrator of the Agency for International Development.

Kathryn Dee Robinson, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

John Shattuck, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

George McDade Staples, of Kentucky, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Joseph Gerard Sullivan, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State.

John Melvin Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

John Melvin Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Eric David Newsom, of Virginia, to be an Assistant Secretary of State.

FOREIGN SERVICE

Foreign Service nominations beginning Richard M. Brown, and ending Thomas B. Anklewich, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 2, 1998.

Foreign Service nominations beginning Aurelia E. Brazeal, and ending William L. Wuensch, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 2, 1998.

Foreign Service nominations beginning Judy R. Ebner, and ending Allen S. Weiner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 23, 1998.

Mr. LOTT. I finally ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations were confirmed en bloc.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JANE E. HENNEY

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of calendar No. 810, the nomination of Jane E. Henney, of New Mexico, to be Commissioner of Food and Drugs for the Department of Health and Human Services. I further ask unanimous consent that the Senate proceed immediately to the vote on the confirmation of the nomination.

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

NOMINATION OF JANE E. HENNEY, OF NEW MEXICO, TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES

The assistant legislative clerk read the nomination of Jane E. Henney, of New Mexico, to be Commissioner of

Food and Drugs, Department of Health and Human Services.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Jane E. Henney, of New Mexico, to be Commissioner of Food and Drugs, Department of Health and Human Services?

The nomination was confirmed.

Mr. LOTT. I ask unanimous consent that the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mr. LOTT. I thank the Senators for allowing me to get these nominations moved. They have a way of becoming unapproved if you wait very long once they are approved. And so I thank you for your cooperation on that.

I yield the floor.

LEGISLATIVE SESSION

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

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

I appreciate the majority leader's concern, and I thank my colleague from Ohio.

THE OMNIBUS APPROPRIATIONS BILL

Mr. ROBB. Mr. President, I would like to speak briefly on the omnibus appropriations bill that we approved this morning. It was roughly a $500 billion omnibus appropriations bill. And I would like to begin by saying that I am thankful that we did not shut down the Federal Government to resolve our spending differences this year. That was clearly a failed approach that disillusioned our Nation and unjustly punished the dedicated Federal employees who serve the American people. But I also have to say I have enormous concern with how we got here, and with some of the consequences of the road we traveled.

Like every one of our colleagues, I am pleased with many aspects of this bill, but disappointed with other aspects. I am pleased that we finally achieved justice for farmers who face racial discrimination at the USDA, that we have acted decisively to strengthen our Nation's defenses, that we have invested substantially in improving the education of our children, that we have refrained—for now at least—from interfering in the local operation of our region's airports, and that we were able to eliminate some of the most egregious anti-environmental riders.

I'm disappointed that we abandoned fiscal discipline and avoided, once again, making the tough choices to pay for our priorities. Instead, we spent $21 plus billion of the so-called ''surplus,'' which we should be saving to protect Social Security, and we failed to enact another round of base closures to help fund needed military readiness improvements. I'm also disappointed that we couldn't make the cuts necessary to find the funds needed to help localities that are struggling to modernize their schools.

Mostly I'm disappointed by the process that led us to an up or down vote, with virtually no debate, on eight separate annual spending bills consolidated into a giant roughly $500 billion package that funds nearly one third of our government. Mr. President, we have a obligation to debate our priorities in the open and make the tough decisions, just like American families are required to do every day.

I believe this process amounts to a dereliction of our duty as representatives of the people. While I appreciate the hard work of the appropriations committees, this all-encompassing appropriations bill has ultimately been the work product of too few people with no realistic opportunity for amendment. Members were left to hope that their interests, and the interests of those they represent, were being advanced. This is heavy burden to ask the appropriations committee and the leadership to bear, and we shouldn't be placing them in that position.

We should be able to debate, and vote, about whether funds should be spent on improving our system of education, and about how they should be spent. We should be able to debate, and vote, about how to remedy racial discrimination in the federal government. And we should able to debate, and vote, about the best way to protect the environment.

But instead of the open debate we need, instead of the careful consideration by each and every member of the public policy consequences that affect our states and nation, we have what amounts to a take-it-or-leave-it appropriations bill that will, again, fund nearly one-third of the federal government.

There's no question, Mr. President, that there are times when a take-it-or-leave it approach is necessary. I support, for example, the base closure process because it is the only mechanism we have devised which forces members of Congress to vote for the politically unpopular closure of unnecessary military facilities. And in order to maintain our role as the world's sole remaining superpower, the need to undertake another round of base closures to increase funding in critical areas will become an imperative. I also support take-it-or-leave-it fast track trade authority to promote free trade because it's the only way other governments will negotiate with us that can achieve meaningful results.

But when it comes to deciding our priorities in federal spending, we need a more open and rational process. Each year that we proceed in this fashion, I become more convinced that we should follow the lead of many states, like my own, Virginia, and undertake biennial budgeting. We should alternate a year of appropriations with a year of oversight. Just today, I signed onto an effort by Senator DOMENICI to institute biennial budgeting.

Due to our failure to pass a budget resolution this year, we have been guided in large part by the balanced budget agreement we reached two years ago. I supported that agreement, because when I came to the Senate in 1988, one of my highest priorities was fighting for fiscal responsibility.

But the problems we've encountered this year in passing our appropriations bills stem directly from the unrealistic goals we established in the balanced budget agreement. We all but ignored the 800 pound gorilla sitting in the room—entitlement spending—and instead focused on reducing our investments through future cuts in discretionary spending. I certainly support weeding out unnecessary discretionary spending, which is why I support the line-item veto, but effectively lowering discretionary caps in real terms, without regard to where those cuts might fall, is not the wisest approach.

The discretionary caps we established in 1997 did not require that tough decisions be made. It merely left to a future Congress the difficult choices in dividing a shrinking pie. We are now that ''future Congress'' and we're having a difficult time reaping what we have sewn. So we cut ''phantom'' future investments to preserve current consumption spending. But to reduce federal spending, and to someday reduce the national debt, we really need to reform entitlement programs. And the longer we wait, the more difficult the task will become.

So while I'm pleased that we reached our destination, I'm extremely disappointed with the road we took to get here. And I hope that during the next Congress, we will work to improve the appropriations process, to get our fiscal work done on time and in the open, and to begin the enormous task of reforming entitlement programs and saving Social Security by making the tough choices.

Mr. President, I reluctantly supported the appropriations bill today because, while the process that produced the bill is a terrible one, the failure to enact the bill would have been far worse. Without this bill there would have been another government shutdown, and the funds wouldn't be there to bolster our military, improve the education of our children, and render long-denied justice for those who've suffered discrimination. Despite all the benefits this bill will provide, however, I strongly object to violating our fiscal discipline and spending $21 billion of the surplus, which will ultimately make the job of saving Social Security more difficult.

Next year, we've got to do better.

With that, Mr. President, I wish our departing colleagues well during our adjournment and I yield the floor.

WORLD AFFAIRS

Mr. DEWINE. Mr. President, in a few short minutes the curtain will fall on this Congress. Today we complete our legislative business. Yet the business of global peace and national security will continue. Issues such as our global economy, regional stability, nuclear proliferation, proliferation of biological and chemical weapons—just to name a few—determine the condition of this business. It is a business that requires the daily attention of our world leaders, including the President of the United States, including his advisors, and including, yes, this Senate.

Yet today it is claimed that our national attention is not focused on the kinds of affairs that have a huge impact on our national security. It is claimed that our focus is not made on foreign affairs. Even our President, we are told, is not able to devote to foreign policy the level of commitment and leadership our country needs. We are told he is distracted. Some say he was distracted first by a lengthy independent counsel investigation, and now distracted by a congressional impeachment process. We are told he is distracted needlessly from doing the job at hand.

Distracted. That is a word that has gotten quite a bit of mileage lately. It has found its way into our editorial pages and into our Sunday morning talk shows. We are told by the political columnists and TV pundits that all of us were distracted in this country—all of us—by the Starr investigation and the Starr report.

Soon it will be the House impeachment process that draws our attention. We are told that all of us are distracted—the American people, the Congress, and first of all, the President—by all of this. We are told that that distraction is dangerous—dangerous because it could send the wrong signal to a rogue nation or a terrorist group or further complicate an already complex global economic slowdown.

The conclusion that seems to be reached by a number of people is that it is in our best interest, perhaps even our national security interest, to achieve an expedited resolution of the impeachment process, and to do it quickly. Some argue that what we need is an alternative to the impeachment process itself. Some have used the term ''censure'' or ''reprimand.'' I am deeply concerned that the upcoming impeachment process is perceived as a distraction, one that inhibits the kind of vision and strategic planning that we must expect from the leader of the world's sole superpower.

This perception is not lost on those around the globe who have a stake in American leadership. And who doesn't have a stake in American leadership? One European Finance Minister here in Washington for the annual IMF World Bank talks was quoted in the New York Times with the following:

> You might find that the leader of the world's biggest economy could spend more time figuring out ways to save the world economy if he was not trying to save his job.

There is no reason for the President of the United States to be distracted to the point of even remote danger to our national security. In other words, we must not let the perception of distraction dictate the reality. We can and must address our interests here and abroad in the midst of this constitutional impeachment process.

For that reason, we cannot let this perceived distraction in any way undermine our constitutional duties as Members of Congress. Perhaps most important, we cannot let this argument of distraction serve as an excuse to avoid the kind of long-range planning and decisionmaking, the strategic thinking, that we need, and should expect, from our President in regard to the American foreign policy during these very difficult times.

These are difficult times, perhaps the most difficult and the most challenging period in the post-cold-war era. Since the end of the cold war we have experienced a combined period of peace and prosperity probably not seen in this country since the 1920s. However, ours has not been a tranquil peace. The President had to send ground troops to Somalia, Haiti, and most recently to Bosnia. We have taken to the air with swift military action in Iran, Sudan and the hills of Afghanistan. We made a show of force in Iraq, the Taiwan Straits, and recently in Serbia. If the last 7 years have proven one lesson, it is clear that the challenges of peace do not end with its achievement. It must be protected, enforced and advanced with the same vigilance and determination we used in the past to arrive at this point in history. As Henry Kissinger reminded our young allies more than 10 years ago:

> History knows no resting places. What does not advance must sooner or later decline.

The world has not been resting. Indeed, this has been a time of increasing restlessness. At no time since the fall of the Soviet Union has the world needed either individual or collective leadership more than it does today. We are in need of leadership that strives not just for quick fixes but solutions that look beyond the short term. When the world looks for leadership, it can only look one place, and that is to the United States. If the United States does not lead, there is no one else who can lead, no one else who will lead. We must lead.

The issues we face are numerous, complex, interrelated and potentially self-destructive. As we near a new millennium, we find ourselves at a virtual crossroad in so many different areas. We stand on the brink of a nuclear arms race in Asia and the Middle East. Nationalism raised the prospect of war in several regions, from Central Europe to Asia, and most ominous, we face a worldwide economic dislocation, and perhaps a global recession, a global recession that threatens to undermine, if not overwhelm, the progress of the democracies that we have seen springing up in virtually every corner of the world. Each one of these challenges has serious economic and security consequences for our own country. Each one of these issues requires leadership from the United States.

Let me expand briefly on each of these challenges. First, the threat of a nuclear arm race in Asia and the Middle East raises serious questions about the effectiveness of our own unilateral and our multilateral efforts to control the flow of materials, to control the flow of technology and information that is needed to build a nuclear weapon and the means to deliver. In May of this year, as we all recall, India and Pakistan both reinforced their status as nuclear powers. China, as we all know, has gone to great length to advance its own ballistic missile capability. And 3 years after an agreement with the Clinton administration to cease its nuclear weapons program, North Korea may still be moving forward to acquire nuclear weapons. In August, North Korea tested a two-stage ballistic missile that demonstrated its capability to deliver a nuclear payload.

When the Persian Gulf war ended in 1991, both sides agreed to a U.N. Security Council resolution that required the destruction and banned future possession and development of nuclear, chemical and biological weapons in Iraq. But time and time again, Iraq has demonstrated its clear resolve never to abide by this resolution. The United Nations demonstrated it has no resolve to insist on compliance.

Iran continues to actively pursue a nuclear weapons program. The capability, if obtained, could fuel a nuclear arms race throughout Asia and the Middle East. Perhaps of greatest concern, nuclear proliferation in this region raises the risk that a nuclear device could end up in the hands of terrorist organizations or other elements hostile to the United States or hostile to the free world.

While these nations have challenged international nuclear nonproliferation policies and agreements, others are asserting nationalism as well as ethnic prerogatives, prerogatives which have tested the United Nations and our NATO allies.

Certainly we can point to the success of the stabilization forces to sustain the Dayton peace accords in Bosnia. However, when will the ultimate end game be in sight? At what point can our troops return home? At what point can real peace sustained by the Bosnians themselves ever be achieved?

While we struggle to find the end game of peace in Bosnia, we are just beginning to make the opening moves and struggle to restore peace in the neighboring Serbian province of

Kosovo. Milosevic has pledged to abide by U.N. demand, but only after the United States and our NATO allies started speaking with force, showing that they are ready. Bosnia has taught us hard lessons. We cannot rest on a commitment made by a war criminal, and the actions or inactions over the last week clearly reinforce that, as well.

To the east, Turkey finds itself in military buildup against two adversaries, Syria and Greece. This administration now has been in a week-long struggle to revive, once again, the single issue that has kept peace and democracy bottled on the eastern shore of the Mediterranean, the peace talks between Israel and the Palestinians.

The regional tensions I have just described are fueled by ethnic and historic tensions that clearly go back for generations, go back centuries. It is safe to say that to achieve stability all sides have to defy the history of violence and bloodshed that preceded. While these nations attempt to reinforce their place in history, other nations are trying to save or achieve the economic and democratic success stories of recent history. Currency downturns across all of Asia now threaten the economic vitality in Latin America, particularly in Brazil. International drug trafficking from South America to the U.S.-Mexico border also undermines legitimate economic development efforts by countries in the production and transit zones. Our own efforts have to look to the larger global economic picture. For example, forcing a drop in the U.S. currency relative to the yen may make Japanese products less expensive, but it effectively makes products made by their Asian competitors more expensive, which could stall economic growth in places like Thailand or Singapore.

Mr. President, I have outlined a series of challenges. Each of these challenges offers no simple solutions. Let's be very clear and honest about that. Each has long-term consequences, though, for U.S. national security. All of them are really interrelated. For example, the harder it is for Russia to right herself economically and politically, the harder it will be for Russia to avoid marketing its own destructive assets—those assets, of course, being nuclear technology.

Mr. President, President Clinton is looking to leave a legacy; surely, he must be. The challenge to leave such a legacy to advance global peace and prosperity into the next century is there for the taking. Mr. President, the American people should not accept the upcoming impeachment process, or investigation—however we want to phrase it—as an identified impediment to achieving that legacy. What it would reveal instead is an administration that is lacking in the creative administrative capacity to articulate and advance a long-term foreign policy agenda. It is that failure to articulate and then stand by that agenda that poses the real risk to U.S. interests around the world.

Mr. President, it is important that we put the impeachment process launched by the House of Representatives in its proper perspective. We are not faced today with a constitutional crisis. Instead, we are beginning a constitutional process. We don't know the ultimate outcome of that. It is a constitutional process designed by our Founding Fathers, designed to be a check on the potentially abusive power of a President. It is up to us in Congress to ultimately determine what ''high crimes and misdemeanors'' mean, and to ultimately determine what the facts are. It is up to us to follow that constitutional process that was laid out over 200 years ago by the founders of this country.

Mr. President, for impeachment, the Constitution provides Congress a way to preserve the integrity of the President and, more to the point, to define this process and the kinds of practices that would fall into the category of high crimes and misdemeanors. Certainly a President faced with this constitutional process will have to devote time and effort to overcome the possible removal from office. We know that. But should we seek to limit or alter this process arbitrarily because it takes him away from other perhaps more pressing duties? Certainly not.

Mr. President, impeachment is not the only process in our Constitution that can result in removal of a President. The Constitution provides a regular formal check on the President's powers known as ''elections''—the electoral process itself. As we all know, a President who is subjected to this constitutional process has to devote a great deal of time and attention to prevent his removal from office by the people. It is called running for election and running for reelection. Campaigns have become longer and more expensive. They demand more and more of a President's time and energy. This has taken place in the midst of challenging times. Not one time was this normal election process altered because of its potentially adverse affects on a President's ability to lead in times of difficulty, or even in times of crisis. Abraham Lincoln fought both a military war to save the union and a political war to save his Presidency in 1864. Franklin Roosevelt battled economic depression, and then Nazi and Japanese aggression, through three reelection campaigns. All of his successors, except one, from Harry Truman to George Bush had to wage and win a cold war, stop and dismantle communism, run a campaign and, at the same time, remain in office.

I cite these examples because we expect our Presidents to exercise leadership even when they are being subjected to a political process that could result in their removal from office. Although the impeachment process raises very serious issues, it is no more a constitutional crisis than the very electoral process itself. Even today, in the days when Presidents are actively involved in reelection campaigns that begin almost immediately after being sworn into office, we expect our President to not let the campaign distract him from exercising leadership on the larger issues that are vital to this country. Nor have we ever postponed an election because of any fear that it would disrupt or threaten our Nation's security —not even when our Nation was at war, not even when our Nation was bitterly divided.

Mr. President, with that in mind, we should not allow the current impeachment proceedings to be used as an excuse for not confronting the more important challenges we face in the world today. As I said in the beginning of my remarks, the business of national security and global peace is never-ending. This makes Presidential leadership a full time job, no matter what constitutional processes are utilized to remove the President from office by those who elected him or those tasked to protect the integrity of that office, whether it is what we consider to be the normal every-four-year reelection process or this extraordinary, unusual process that is clearly prescribed in the Constitution—the impeachment process that we are about today.

Therefore, Mr. President, any process to address the charges raised by the independent counsel, short of that provided for in the Constitution, would be a grave mistake. I am confident that the chairman of the House Judiciary Committee, Congressman HENRY HYDE, will conduct a thorough and fair hearing. Congressman HYDE will not let the process last a day longer than is needed. It is a process that will consume the time of many members of the legislative and executive branch of Government. However, it is a process put in place by the founders of this country to preserve the integrity of representative government. We have a duty to follow that process. It is not in anyone's interest to cheapen or weaken this process in a way that compromises our system of Government.

With that said, the process must continue. I am confident that the House and the Senate will conduct themselves in a way that will give confidence to the American people that we are following the Constitution and that we are doing what we think is right—whatever the outcome.

Mr. President, I urge the President of the United States to demonstrate that we are a country capable of following our Constitution and maintaining our position of leadership in the world. That could only occur if the President brushes aside the talk of distraction and takes on the numerous challenges before us. Ultimately, Mr. President, the truest sign of weakness is not a President focused on the constitutional process at hand, but an entire administration that is not prepared to exercise the leadership needed to work with our

allies, develop sound policies, and then abide by them.

Mr. President, I thank the Chair.

EXECUTIVE SESSION

TREATIES

Mr. DEWINE. Mr. President, on behalf of the majority leader of the Senate, I ask unanimous consent that the Senate proceed to executive session to consider the following treaties on today's executive calendar: Numbers 24 through 54.

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

Mr. DEWINE. Mr. President, I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolution of ratification, that all committee provisos, reservations, understandings, and declarations be considered agreed to.

I further ask that two technical amendments that are at the desk to treaty documents 105–34 and 104–40 be considered as agreed to, that any statements be inserted in the CONGRESSIONAL RECORD as if read.

I further ask that there be one vote to count as individual votes on each of the treaties, and further, when the resolutions of ratification are voted upon, the motions to reconsider be laid upon the table, that the President then be notified of the Senate's action, and following the disposition of the treaties, the Senate return to legislative session.

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

The amendments read as follows:

AMENDMENT NO. 3840

(Purpose: To Make a Technical Correction to the Resolution of Ratification of the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 105–34)

On lines 5 and 6 of the Resolution of Ratification of the Treaty Between the United States of America and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105–22), strike ''and an exchange of notes signed on the same date''.

AMENDMENT NO. 3841

(Purpose: To Make a Technical Correction to the Resolution of Ratification of the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 105–40)

On line 5 of the Resolution of Ratification of the Treaty Between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 105–22), strike ''Tel Aviv'' and insert ''Jerusalem''.

(The resolutions of ratification will be printed in a future edition of the RECORD.)

WIPO TREATIES

Mr. DEWINE. Mr. President, I am pleased to rise in support of the resolution of ratification of two treaties that are of unsurpassed importance to America's prospects in the global economy of the 21st century.

The World Intellectual Property Organization (WIPO) treaties are hardly the topics of everyday conversation in my home state of Ohio, or in any of my colleagues' home states. But they are critically important treaties. Every country that ratifies these treaties is required to update its laws against the piracy of copyrighted materials, and to extend those laws to the electronic commerce marketplace epitomized by the Internet. That outcome will be great news for Ohioans, and for all Americans.

American creativity is the envy of the world today. Our music, movies, computer software, video games and published materials are in great demand in almost every country in the world. In fact, taken as a whole, the industries dependent on copyrighted are our country's single biggest export earner, with an estimated $60 billion in exports and foreign sales in 1996. No wonder studies show that the creative industries are one of most dynamic sectors of our economy, accounting for some 3.5 million U.S. jobs.

The greatest single threat to this economic success story is piracy. New technology heightens this threat. The Internet and other digital media offer great potential for bringing the fruits of American creativity to new markets; but they also make it easier than ever before for pirates to make unlimited numbers of perfect copies of our creative works, and distribute them around the world—literally at the touch of a button.

That's where these two new treaties come in. By requiring countries to upgrade their copyright laws, and to update them for the digital age, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, provide critical new legal tools in the fight against piracy worldwide. That will help make overseas markets safer for the export of U.S. music, movies, software and books—and encourage the further growth of this key sector of our economy.

Ratification of the WIPO treaties advances another important goal—one that does not simply translate to dollars and cents. It helps to underscore the need for responsible conduct on the Internet. People who would never even consider shoplifting a CD or a videocassette from a store sometimes think the same rules about respecting private property should not apply in cyberspace. Ratifying these two treaties helps to dispel that illusion. That's good news, not only for the creative community—songwriters, performers, software designers, authors—but also for all our families as they explore the exciting new territory of the Internet.

Mr. President, as a member of the Judiciary Committee, I worked with my colleagues to hammer out the legislation needed to implement the standards of the WIPO treaties in U.S. law. Since our copyright law is already strong, only a few provisions had to be added—but, some provisions were contentious, and I am pleased that we were able to achieve a balanced, compromise solution that commanded almost unanimous support. That legislation, which also made other important improvements to our copyright law, is on its way to the President's desk, and I urge him to sign it.

Today's action complete the job, by authorizing the Administration to formally ratify the two treaties. It will also send a powerful message to our trading partners—some of whom must make many more extensive changes to their copyright laws in order to meet the standards of these treaties—that now is the time to move forward on this critical task.

I commend my colleagues in the Foreign Relations Committee for moving this measure to the Senate floor so promptly after the Senate's adoption of the implementing legislation, and I urge my colleagues to support the resolution of ratification.

Mr. HAGEL. Mr. President, on September 10, 1998, in my role as Chairman of the Subcommittee on International Economic Policy, Export and Trade Promotion, I chaired the Foreign Relations Committee hearing on two important treaties that the Senate will ratify today. I refer to the World Intellectual Property Organization Copyright Treaty (WCT) and the World Intellectual Property Organization Performances and Phonograms Treaty (WPPT), collectively known as the WIPO Treaties, done at Geneva on December 20, 1996, and signed by the United States on April 12, 1997. These treaties will play a key role in assuring U.S. global competitiveness in the electronic commerce marketplace of the 21st century.

The purpose of the WIPO Treaties is to respond to the challenges of protecting copyrighted works, performances and sound recordings in the realm of digital technology. The adoption of these treaties represents a major step toward achieving adequate protection of intellectual property in the growing global economy. Bringing these treaties into effect will greatly facilitate global electronic commerce, and will facilitate exports and foreign sales of U.S. copyrighted materials in markets around the world.

In the hearing I chaired regarding the WIPO Treaties, the Foreign Relations Committee heard testimony from representatives of the Administration and from the information technology, telecommunications, and motion picture industries, including Jack Valenti, President and CEO of the Motion Picture Association of America, as well as from a coalition of educational and library interests. All the witnesses gave their overwhelming support for U.S. ratification of the WIPO Treaties. However, the main message that came from the hearing was that the WIPO Treaties needed to pass in conjunction

with the corresponding implementation legislation that would update current U.S. copyright laws. We will have accomplished that task.

On October 8, 1998, the Senate unanimously passed the conference report to H.R. 2281, the Digital Millennium Copyright Act. This legislation will allow for the full implementation of the WIPO Treaties, by modifying current U.S. law in a few areas to meet the obligations imposed by the treaties and to ensure that liability questions are clearly defined in the treaties. U.S. copyright laws are strong and are vigorously enforced. However, these changes were needed to bring them up to date so U.S. law fell into compliance with the WIPO Treaties.

American creativity is the key to our competitiveness in this global economy. With so many industries in the United States protected by copyright—such as the computer software, music, recording, audio-visual and publishing industries—being among the most dynamic and fastest-growing sectors of the U.S. economy, it is important to protect these industries. In 1996, in a study commissioned by the International Intellectual Property Alliance, it was estimated that the U.S. creative industries contributed almost $280 billion to the Gross Domestic Product, and accounted for some 3.5 million jobs, surpassing any single manufacturing sector by both measures. Most important, the estimated $60 billion of foreign sales and exports by the U.S. copyright industries in 1996 made them the leading export sector of the entire economy. Consequently, the strength of legal protection in other countries for U.S. copyrighted materials is a key factor in promoting our global competitiveness.

The growth of digital networks such as the Internet offers an exciting opportunity for enhanced access by U.S. creators to world markets, but also presents a threat in the form of increased digital piracy of American works of authorship. The same technology that enables rapid and efficient authorized dissemination of U.S. copyrighted materials around the world also enables pirates to make and distribute perfect copies of these materials without authorization, more rapidly and efficiently then ever before, and with less risk of detection. Network-based digital piracy threatens to inflict losses on American creators that dwarf the estimated $18–20 billion which our creative industries now lose to overseas piracy every year. For these reasons, I plan to hold a hearing next year in my subcommittee on International Economic Policy, Export and Trade Promotion on the effects of software piracy on the U.S. economy as well as the global economy.

Given the leading role of the U.S. creative industries in the global trade in computer software, music and recordings, and published test materials, it is clearly in the U.S. national interest for the WIPO Treaties to come into force as soon as possible. Prompt U.S. ratification of the treaties will send a clear message to other countries and will provide critical momentum to the drive to bring the treaties into force.

I urge my colleagues to approve the Resolution of Ratification, and thus complete the process of giving the Senate's advice and consent to these two important treaties.

Mr. DEWINE. Mr. President, also on behalf of the majority leader, Senator LOTT, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the ratification of the treaties please stand and be counted. (After a pause.) Those opposed to the ratification will please stand and be counted.

On this vote, with two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

LEGISLATIVE SESSION

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

EXTENSION OF FISCAL YEAR 1999 VISA PROCESSING PERIOD

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4821, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4821) to extend into fiscal year 1999 the visa processing period for diversity applicants whose visa processing was suspended during fiscal year 1998 due to embassy bombings.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4821) was considered read the third time and passed.

INTERNATIONAL ANTI-BRIBERY ACT OF 1998

Mr. DEWINE. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the Senate amendments numbered 2 through 6 of the House amendment to the bill (S. 2375) entitled ''An Act to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes'', and agree the Senate amendment numbered 1 with the following amendment:

In lieu of the matter proposed to be stricken by such amendment strike line 8 on page 23 of the House engrossed amendments and all that follows through line 2 on page 25 and insert the following:

(c) EXTENSION OF LEGAL PROCESS.—

(1) IN GENERAL.—Except as required by international agreements to which the United States is a party, an international organization providing commercial communications services, its officials and employees, and its records shall not be accorded immunity from suit or legal process for any act or omission taken in connection with such organization's capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States.

(2) NO EFFECT ON PERSONAL LIABILITY.—Paragraph (1) shall not affect any immunity from personal liability of any individual who is an official or employee of an international organization providing commercial communications services.

(3) EFFECTIVE DATE.—This subsection shall take effect on May 1, 1999.

(d) ELIMINATION OR LIMITATION OF EXCEPTIONS.—

(1) ACTION REQUIRED.—The President shall, in a manner that is consistent with requirements in international agreements to which the United States is a party, expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities that are accorded to an international organization described in subparagraph (A) or (B) of subsection (a)(1), its officials, its employees, or its records, and that are not eliminated pursuant to subsection (c).

(2) DESIGNATION OF AGREEMENTS.—The President shall designate which agreements constitute international agreements to which the United States is a party for purposes of this section.

COLLOQUY ON S. 2375

Mr. D'AMATO. I am aware that the Senator from Montana has raised concerns regarding section 5 of the bill. Do the amendments considered by the Senate today satisfy your concerns?

Mr. SARBANES. If the Senator would yield, as the Ranking Democrat of the Senate Banking Committee, I would also like to know the views of the Senator from Montana.

Mr. BURNS. I thank my colleagues. Yes, the amendments do satisfy my concerns.

The amendments to the Foreign Corrupt Practices Act (FCPA) approved by the Senate today, to implement in the United States the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, are an important achievement in ensuring fair play for American companies doing business overseas. The value of this legislation for U.S. business fully justifies the action we are taking today. However, there are provisions in this bill that are unrelated to implementation of the

OECD convention. I would have preferred a bill that did not contain these unrelated provisions, principally embodied in Section 5.

The House earlier passed S. 2375 with an amendment making significant changes to language addressing the treatment of international organizations providing commercial communications services which had earlier been contained in Section 5 of H.R. 4353 as reported by the House Commerce Committee. These changes reflect an agreement between the House and Senate Commerce Committee leaders. It is my understanding that the House Commerce Committee report accompanying H.R. 4353 addressing Section 5 of that bill is not germane to the interpretation of section 5 in light of the significant changes made therein.

With respect to Section 5 and the other provisions of the bill concerning the international organizations INTELSAT and Inmarsat, the Senate is accepting these provisions because of our understanding that nothing in the bill will change the immunities treatment of INTELSAT and Inmarsat, nor create an inconsistency with U.S. obligations under international agreements (e.g., by requiring action or inaction by the Executive Branch) or interfere with the President's authorities under the constitution to conduct the foreign relations of the United States. To achieve the objectives of Section 5, the President can be expected to use existing and future negotiations aimed at the privatization of the telecommunications services of INTELSAT and Inmarsat.

I have the following specific views with regard to the bill's telecommunications provisions:

The United States remains in a positions to meet fully its obligations under the INTELSAT Headquarters Agreement, an international agreement under which the United States has undertaken international legal obligations to INTELSAT. Nothing in the statute changes the immunity standards of that Agreement. Based on my discussions with the administration, I expect that the President will designate the INTELSAT Headquarters Agreement under subsection (d)(2).

The requirement in [section 5(d)(1)] for the President, consistent with requirements in international agreements to which the U.S. is a party, to take all appropriate actions to eliminate or limit substantially any privileges and immunities from suit or legal process accorded to an international organization applies only to suits or legal process in respect of the organizations' commercial activities. Such an interpretation would be consistent with the theory of sovereign immunity to which the United States adheres.

The requirements [in Section 5(d)] for the President, consistent with requirements in international agreements to which the U.S. is a party, expeditiously take all appropriate actions to eliminate or limit substantially privileges and immunities does not compel the President to take any action which the President may find to be contrary to the interests of the United States and does not compel the President to decertify INTELSAT or Inmarsat under the International Organizations Immunities Act I am pleased that subsection 5(d) gives the President broad discretion to determine what measures are ''appropriate'' to achieve the objectives of section 5.

The bill should not frustrate negotiations by the President to privatize successfully the commercial activities of INTELSAT and Inmarsat in a fashion that eliminates all privileges and immunities for such activities; this being the best means of satisfying the objective of fair and open commercial competition.

I further understand that all efforts of INTELSAT and Inmarsat to restructure into private business organizations constitute core functions of these organizations, not commercial functions, within the meaning of subsection (c)(1) of Section 5.

I understand that Section (5) of S. 2375 is not intended to overturn or disturb any judicial decision interpreting the privileges and immunities of signatories of INTELSAT and Inmarsat, especially Alpha Lyracom (PanAmSat) v. COMSAT, 946 F.2d 168 (2d Cir. 1991).

It is my understanding that subsection (d) of Section (5) is intended to become effective on May 1, 1999 when subsection (c) becomes effective, since the two subsections are intended to operate in concert.

I appreciate the opportunity to clarify the scope and intent of this legislation. At this time, I would like to ask the distinguished Senator from Arizona, the Chairman of the Committee on Commerce, Science and Transportation if he concurs?

Mr. MCCAIN. I thank the Senator from Montana. I do concur with the statements just delivered concerning the interpretation of Section 5 in S. 2375.

Mr. BURNS. I thank my colleague from Arizona.

Mr. DEWINE. Mr. President, I ask that the Senate recede from its amendments numbered 2 through 6. I further ask the Senate concur in the House amendment to the Senate amendment numbered 1.

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

PRIVATE RELIEF BILLS

Mr. DEWINE. Mr. President, in behalf of the majority leader, I ask unanimous consent that the Senate proceed to the consideration of the following private relief bills: H.R. 1834 and H.R. 1794, which are at the desk; and, Calendar No. 609, H.R. 378; Calendar No. 610, H.R. 379; Calendar No. 679, H.R. 1949; Calendar No. 611, H.R. 2744.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bills?

There being no objection, the Senate proceeded to consider the bills.

Mr. DEWINE. Mr. President, I ask unanimous consent that the bills be considered read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD.

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

FOR THE RELIEF OF MERCEDES DEL CARMEN QUIROZ MARTINEZ CRUZ

The bill (H.R. 1834) was considered, ordered to a third reading, read the third time, and passed.

FOR THE RELIEF OF MAI HOA ''JASMIN'' SALEHI

The bill (H.R. 1794) was considered, ordered to a third reading, read the third time, and passed.

FOR THE RELIEF OF HERACLIO TOLLEY

The bill (H.R. 378) was considered, ordered to a third reading, read the third time, and passed.

FOR THE RELIEF OF LARRY ERROL PIETERSE

The bill (H.R. 379) was considered, ordered to a third reading, read the third time, and passed.

FOR THE RELIEF OF CHONG HO KWAK

The bill (H.R. 2744) was considered, ordered to a third reading, read the third time, and passed.

FOR THE RELIEF OF NURATU OLAREWAJU ABEKE KADIRI

The bill (H.R. 1949) was considered, ordered to a third reading, read the third time, and passed.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

Mr. DEWINE. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2117) entitled ''An Act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System,

Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the ''Perkins County Rural Water System Act of 1998''.

SEC. 102. FINDINGS.

The Congress finds that—

(1) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(2) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation; and

(3) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project.

SEC. 103. DEFINITIONS.

In this title:

(1) FEASIBILITY STUDY.—The term ''feasibility study'' means the study entitled ''Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.'', as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 104. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 105. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 106. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system may contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 107. FEDERAL SHARE.

The Federal share under section 104 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 108. NON-FEDERAL SHARE.

The non-Federal share under section 104 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 109. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—At the request of the Perkins County Rural Water System, the Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

TITLE II—PINE RIVER PROJECT CONVEYANCE ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Pine River Project Conveyance Act''.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term ''Jurisdictional Map'' means the map entitled ''Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs'' dated March, 1998.

(2) The term ''Pine River Project'' or the ''Project'' means Vallecito Dam and Reservoir owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910, 36 Stat. 835; facilities appurtenant to the Dam and Reservoir, including equipment, buildings, and other improvements; lands adjacent to the Dam and Reservoir; easements and rights-of-way necessary for access and all required connections with the Dam and Reservoir, including those for necessary roads; and associated personal property, including contract rights and any and all ownership or property interest in water or water rights.

(3) The term ''Repayment Contract'' means Repayment Contract #I1r–1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, and all amendments and additions thereto, including the Act of July 27, 1954 (68 Stat. 534), covering the Pine River Project and certain lands acquired in support of the Vallecito Dam and Reservoir pursuant to which the Pine River Irrigation District has assumed operation and maintenance responsibilities for the dam, reservoir, and water-based recreation in accordance with existing law.

(4) The term ''Reclamation'' means the Department of the Interior, Bureau of Reclamation.

(5) The term ''Secretary'' means the Secretary of the Interior.

(6) The term ''Southern Ute Indian Tribe'' or ''Tribe'' means a federally recognized Indian tribe, located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(7) The term ''Pine River Irrigation District'' or ''District'' means a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the City of Bayfield, La Plata County, Colorado and having an undivided 5/6 right and interest in the use of the water made available by Vallecito Reservoir for the purpose of supplying the lands of the District, pursuant to the Repayment Contract, and the decree in Case No. 1848–B, District Court, Water Division 7, State of Colorado, as well as an undivided 5/6 right and interest in the Pine River Project.

SEC. 203. TRANSFER OF THE PINE RIVER PROJECT.

(a) CONVEYANCE.—The Secretary is authorized to convey, without consideration or compensation to the District, by quitclaim deed or patent, pursuant to section 206, the United States undivided 5/6 right and interest in the Pine River Project under the jurisdiction of Reclamation for the benefit of the Pine River Irrigation District. No partition of the undivided 5/6 right and interest in the Pine River Project shall be permitted from the undivided 1/6 right and interest in the Pine River Project described in subsection (b) and any quitclaim deed or patent evidencing a transfer shall expressly prohibit partitioning. Effective on the date of the conveyance, all obligations between the District and the Bureau of

Indian Affairs on the one hand and Reclamation on the other hand, under the Repayment Contract or with respect to the Pine River Project are extinguished. Upon completion of the title transfer, said Repayment Contract shall become null and void. The District shall be responsible for paying 50 percent of all costs associated with the title transfer.

(b) BUREAU OF INDIAN AFFAIRS INTEREST.—At the option of the Tribe, the Secretary is authorized to convey to the Tribe the Bureau of Indian Affairs' undivided 1/6 right and interest in the Pine River Project and the water supply made available by Vallecito Reservoir pursuant to the Memorandum of Understanding between the Bureau of Reclamation and the Office of Indian Affairs dated January 3, 1940, together with its Amendment dated July 9, 1964 ('MOU'), the Repayment Contract and decrees in Case Nos. 1848–B and W–1603–76D, District Court, Water Division 7, State of Colorado. In the event of such conveyance, no consideration or compensation shall be required to be paid to the United States.

(c) FEDERAL DAM USE CHARGE.—Nothing in this title shall relieve the holder of the license issued by the Federal Energy Regulatory Commission under the Federal Power Act for Vallecito Dam in effect on the date of enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the remaining term of the present license. At the expiration of the present license term, the Federal Energy Regulatory Commission shall adjust the charge to reflect either (1) the 1/6 interest of the United States remaining in the Vallecito Dam after conveyance to the District; or (2) if the remaining 1/6 interest of the United States has been conveyed to the Tribe pursuant to subsection (b), then no Federal dam charge shall be levied from the date of expiration of the present license.

SEC. 204. JURISDICTIONAL TRANSFER OF LANDS.

(a) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Pine River Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth in subsection (b) (the ''Jurisdictional Transfer''), concurrently with the conveyance described in section 203(a). Except as otherwise shown on the Jurisdictional Map—

(1) for withdrawn lands (approximately 260 acres) lying below the 7,765-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided 5/6 interest to Reclamation and an undivided 1/6 interest to the Bureau of Indian Affairs in trust for the Tribe; and

(2) for Project acquired lands (approximately 230 acres) above the 7,765-foot reservoir water surface elevation level, Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(b) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to subsection (a) shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Commissioner of Reclamation, Department of the Interior, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) ADMINISTRATION.—Following the Jurisdictional Transfer:

(1) All lands that, by reason of the Jurisdictional Transfer, become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C–28259, shall be revoked.

(3) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Pine River Project.

(4) The undivided 5/6 interest in National Forest System lands that, by reason of the Jurisdictional Transfer is to be administered by Reclamation, shall be conveyed to the District pursuant to section 203(a).

(5) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(6) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(d) VALID EXISTING RIGHTS.—Nothing in this title shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the Jurisdictional Transfer in accordance with subsection (c) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

SEC. 205. LIABILITY.

Effective on the date of the conveyance of the remaining undivided 1/6 right and interest in the Pine River Project to the Tribe pursuant to section 203(b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to such Project, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

SEC. 206. COMPLETION OF CONVEYANCE.

(a) IN GENERAL.—The Secretary's completion of the conveyance under section 203 shall not occur until the following events have been completed:

(1) Compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal and State laws.

(2) The submission of a written statement from the Southern Ute Indian Tribe to the Secretary indicating the Tribe's satisfaction that the Tribe's Indian Trust Assets are protected in the conveyance described in section 203.

(3) Execution of an agreement acceptable to the Secretary which limits the future liability of the United States relative to the operation of the Project.

(4) The submission of a statement by the Secretary to the District, the Bureau of Indian Affairs, and the State of Colorado on the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(5) The development of an agreement between the Bureau of Indian Affairs and the District to prescribe the District's obligation to so operate the Project that the 1/6 rights and interests to the Project and water supply made available by Vallecito Reservoir held by the Bureau of Indian Affairs are protected. Such agreement shall supercede the Memorandum of Agreement referred to in section 203(b) of this Act.

(6) The submission of a plan by the District to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including management for the preservation of public access and recreational values and for the prevention of growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir. Any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(7) The development of a flood control plan by the Secretary of the Army acting through the Corps of Engineers which shall direct the District in the operation of Vallecito Dam for such purposes.

(b) REPORT.—If the transfer authorized in section 203 is not substantially completed within 18 months from the date of enactment of this Act, the Secretary, in coordination with the District, shall promptly provide a report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate on the status of the transfer described in section 203(a), any obstacles to completion of such transfer, and the anticipated date for such transfer.

(c) FUTURE BENEFITS.—Effective upon transfer, the District shall not be entitled to receive any further Reclamation benefits attributable to its status as a Reclamation project pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereto or amendatory thereof.

TITLE III—WELLTON-MOHAWK TRANSFER ACT

SEC. 301. SHORT TITLE.

This title may be referred to as the ''Wellton-Mohawk Transfer Act''.

SEC. 302. TRANSFER.

The Secretary of the Interior (''Secretary'') is authorized to carry out the terms of the Memorandum of Agreement No. 8–AA–34–WAO14 (''Agreement'') dated July 10, 1998 between the Secretary and the Wellton-Mohawk Irrigation and Drainage District (''District'') providing for the transfer of works, facilities, and lands to the District, including conveyance of Acquired Lands, Public Lands, and Withdrawn Lands, as defined in the Agreement.

SEC. 303. WATER AND POWER CONTRACTS.

Notwithstanding the transfer, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments or supplements thereto or extensions thereof and as provided under section 2 of the Agreement.

SEC. 304. SAVINGS.

Nothing in this title shall affect any obligations under the Colorado River Basin Salinity Control Act (Public Law 93–320, 43 U.S.C. 1571).

SEC. 305. REPORT.

If transfer of works, facilities, and lands pursuant to the Agreement has not occurred by July 1, 2000, the Secretary shall report on the status of the transfer as provided in section 5 of the Agreement.

SEC. 306. AUTHORIZATION

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—SLY PARK DAM AND RESERVOIR, CALIFORNIA

SEC. 401. SHORT TITLE.

This title may be cited as the ''Sly Park Unit Conveyance Act''.

SEC. 402. DEFINITIONS.

For purposes of this title:

(1) The term ''District'' means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Project'' means all of the right, title, and interest in and to the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals held by the United States pursuant to or related to the authorization in the Act entitled ''An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes'', approved October 14, 1949 (63 Stat. 852 chapter 690);

SEC. 403. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act), the Secretary shall convey the Project to the District.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 405).

SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) PAYMENT OBLIGATIONS NOT AFFECTED.—The conveyance of the Project under this title does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14–06–200–7734, as amended by contracts numbered 14–06–200–4282A and 14–06–200–8536A.

(b) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the District in accordance with section 403(b) shall extinguish all payment obligations under contract numbered 14–06–200–949IR1 between the District and the Secretary.

SEC. 406. RELATIONSHIP TO OTHER LAWS.

(a) RECLAMATION LAWS.—Except as provided in subsection (b), upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) PAYMENTS INTO THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this Act. The District's obligation shall be calculated in the same manner as Central Valley Project water contractors.

SEC. 407. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

TITLE V—CLEAR CREEK DISTRIBUTION SYSTEM CONVEYANCE

SEC. 501. SHORT TITLE.

This title may be cited as the ''Clear Creek Distribution System Conveyance Act''.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) DISTRICT.—The term ''District'' means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) RECLAMATION.—The term ''Reclamation'' means the United States Bureau of Reclamation.

(4) AGREEMENT.—The term ''Agreement'' means Agreement No. 8–07–20–L6975 entitled ''Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District.''

(5) DISTRIBUTION SYSTEM.—The term ''Distribution System'' means that term as defined in the Agreement.

SEC. 503. AUTHORITY TO CONVEY TITLE.

The Secretary is hereby authorized to convey title to the Distribution System consistent with the terms and conditions set forth in the Agreement.

SEC. 504. COMPLIANCE WITH OTHER LAWS.

Following conveyance of title as provided in this title, the District shall comply with all requirements of Federal, California, and local law as may be applicable to non-Federal water distribution systems.

SEC. 505. NATIVE AMERICAN TRUST RESPONSIBILITY.

The Secretary shall ensure that any trust responsibilities to any Native American Tribes that may be affected by the transfer under this title are protected and fulfilled.

SEC. 506. LIABILITY.

Effective on the date of conveyance as provided in this title, the District agrees that it shall hold the United States harmless and shall indemnify the United States for any and all claims, costs, damages, and judgments of any kind arising out of any act, omission, or occurrence relating to the Distribution System, except for such claims, costs, or damages arising from acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance for which the United States is found liable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), provided such acts of negligence exclude all actions related to the installation of the Distribution System and/or prior billing and payment relative to the Distribution System.

SEC. 507. DEAUTHORIZATION.

Effective upon the date of conveyance, the Distribution System is hereby deauthorized as a Federal Reclamation Project facility. Thereafter, the District shall not be entitled to receive any further Reclamation benefits relative to the Distribution System. Such deauthorization shall not affect any of the provisions of the District's existing water service contract with the United States (contract number 14–06–200–489–IR3), as it may be amended or supplemented. Nor shall such deauthorization deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or renewal by entering into a long-term water service contract.

TITLE VI—COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT

SEC. 601. COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT.

(a) SHORT TITLE.—This section may be cited as the ''Colusa Basin Watershed Integrated Resources Management Act''.

(b) AUTHORIZATION OF ASSISTANCE.—The Secretary of the Interior (in this section referred to as the ''Secretary'') may provide financial assistance to the Colusa Basin Drainage District, California (in this section referred to as the ''District''), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, ch. 1399), as in effect on the date of the enactment of this Act (in this section referred to as the ''State statute''), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—

(1)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;

(B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or

(C) construct, restore, or preserve wetland and riparian habitat; and

(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, conjunctive use, and increased water supplies.

(c) PROJECT SELECTION.—

(1) ELIGIBLE PROJECTS.—A project shall be an eligible project for purposes of subsection (b) only if it is—

(A) identified in the document entitled ''Colusa Basin Water Management Program'', dated February 1995; and

(B) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(2) COMPATIBILITY REQUIREMENT.—The Secretary shall ensure that projects for which assistance is provided under this section are not inconsistent with watershed protection and environmental restoration efforts being carried out under the authority of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

(d) COST SHARING.—

(1) NON-FEDERAL SHARE.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—

(A) 25 percent of the costs associated with construction of any project carried out with assistance provided under this section; and

(B) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project.

(2) PLANNING, DESIGN, AND COMPLIANCE ASSISTANCE.—Funds appropriated pursuant to this section may be made available to fund all costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(3) TREATMENT OF CONTRIBUTIONS.—For purposes of this subsection, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

(e) COSTS NONREIMBURSABLE.—Amounts expended pursuant to this section shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

(f) AGREEMENTS.—Funds appropriated pursuant to this section may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary—

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by subsection (d)(1); and

(2) governing the funding of planning, design, and compliance activities costs under subsection (d)(2).

(g) REIMBURSEMENT.—For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute referred to in subsection (b) before the date amounts are provided for the project under this section, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or the local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under subsection (d).

(h) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this section.

(2) SUBCONTRACTING.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in appropriations Acts, for work carried out under such contracts or subcontracts.

(i) RELATIONSHIP TO RECLAMATION REFORM ACT OF 1982.—Activities carried out, and financial assistance provided, under this section shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(j) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services of the types involved in the District's projects as shown by engineering and other relevant indexes. Sums appropriated under this subsection shall remain available until expended.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL CORRECTIONS.

(a) REDUCTION OF WAITING PERIOD FOR OBLIGATION OF FUNDS PROVIDED UNDER RECLAMATION SAFETY OF DAMS ACT OF 1978.—Section 5 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471; 43 U.S.C. 509) is amended by striking ''sixty days'' and all that follows through ''day certain)'' and inserting ''30 calendar days''.

(b) ALBUQUERQUE METROPOLITAN AREA RECLAMATION AND REUSE PROJECT.—

(1) TECHNICAL CORRECTIONS.—Section 1621 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–12g) is amended—

(A) by amending the section heading to read as follows:

''SEC. 1621. ALBUQUERQUE METROPOLITAN AREA WATER RECLAMATION AND REUSE PROJECT.'';

and

(B) in subsection (a) by striking ''Reuse'' and all that follows through ''reclaim'' and inserting ''Reuse Project to reclaim''.

(2) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by striking the item relating to section 1621 and inserting the following:

''Sec. 1621. Albuquerque Metropolitan Area Water Reclamation and Reuse Project.''.

(c) PHOENIX METROPOLITAN WATER RECLAMATION AND REUSE PROJECT.—Section 1608 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4666; 43 U.S.C. 390h–6) is amended—

(1) by amending subsection (a) to read as follows:

''(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge, and indirect potable reuse in the Phoenix metropolitan area.'';

(2) in subsection (b) by striking the first sentence; and

(3) by striking subsection (c).

(d) REFUND OF CERTAIN AMOUNTS RECEIVED UNDER RECLAMATION REFORM ACT OF 1982.—

(1) REFUND REQUIRED.—Subject to paragraph (2) and the availability of appropriations, the Secretary of the Interior shall refund fully amounts received by the United States as collections under section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)) for paid bills (including interest collected) issued by the Secretary of the Interior before January 1, 1994, for full-cost charges that were assessed for failure to file certain certification or reporting forms under sections 206 and 224(c) of such Act (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)).

(2) ADMINISTRATIVE FEE.—In the case of a refund of amounts collected in connection with sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)) with respect to any water year after the 1987 water year, the amount refunded shall be reduced by an administrative fee of $260 for each occurrence.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000.

(e) EXTENSION OF PERIODS FOR REPAYMENTS FOR NUECES RIVER RECLAMATION PROJECT AND CANADIAN RIVER RECLAMATION PROJECT, TEXAS.—Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104–318; 110 Stat. 3862) is amended by adding at the end the following new subsection:

''(c) EXTENSION OF PERIODS FOR REPAYMENT.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

''(1) shall extend the period for repayment by the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675, relating to the Nueces River reclamation project, Texas, until—

''(A) August 1, 2029, for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

''(B) until August 1, 2044, for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

''(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14–06–500–485, relating to the Canadian River reclamation project, Texas, until October 1, 2021.''.

(f) SOLANO PROJECT WATER.—

(1) AUTHORIZATION.—The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for—

(A) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California, and

(B) the exchange of water among Solano Project contractors, for the purposes set forth in subparagraph (A), using facilities associated with the Solano Project, California.

(2) LIMITATION.—The authorization under paragraph (1) shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the city of Fairfield for delivery of Solano Project water.

(g) FISH PASSAGE AND PROTECTIVE FACILITIES, ROGUE RIVER BASIN, OREGON.—The Secretary of the Interior is authorized to use otherwise available amounts to provide up to $2,000,000 in financial assistance to the Medford Irrigation District and the Rogue River Valley Irrigation District for the design and construction of fish passage and protective facilities at North Fork Little Butte Creek Diversion Dam and South Fork Little Butte Creek Diversion Dam in the Rogue River basin, Oregon, if the Secretary determines in writing that these facilities will enhance the fish recovery efforts currently underway at the Rogue River Basin Project, Oregon.

(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to abrogate or affect any obligation of the United States under section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

SEC. 702. DICKENSON, NORTH DAKOTA.

The Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of the Energy and Water Development Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-118).

AMENDMENT NO. 3842

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House with a further amendment which is at the desk on behalf of Senators MURKOWSKI and BUMPERS.

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

Mr. DEWINE. Mr. President, I ask unanimous consent that the amendment be agreed to, and the motion to reconsider be laid upon the table.

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

The amendment (No. 3842) was agreed to.

Mr. DOMENICI. Mr. President, I am very pleased at the Senate's passage of S. 2117, as amended, which includes a number of legislative items of great interest to my home state of New Mexico. This legislation allows for transfer by the Secretaries of Agriculture and Interior real property and improvements at the old Jicarilla Ranger District Station, near the village of Gobernador, New Mexico to San Juan College. It also allows for transfer by the Secretary of the Interior real property and improvements at the old Coyote Ranger District Station, near the small town of Coyote, New Mexico, to Rio Arriba County. An additional provision will amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail, and finally, this bill will convey tracts of land—paid for by Carlsbad Irrigation District and referred to as ''acquired lands''—back to the district, which I have been working to accomplish for several congresses.

All of these provisions have bipartisan and administrative support, and all will improve the lives of New Mexicans around the state. Regarding the Jicarilla Ranger District transfer, the Forest Service determined that the ten acres in question are of no further use to them and recently endorsed passage of this bill to provide long-term benefits for the people of San Juan County and the students and faculty of San Juan College in northwest New Mexico. The Coyote Ranger Station in northern New Mexico will also continue to be used for public purposes, including a community center, and a fire substation. Some of the buildings will also be available for Rio Arriba County to use for storage and repair of road maintenance equipment, and other County vehicles.

Over one third of the land in New Mexico is owned by the federal government, and therefore finding appropriate sites for community and educational purposes can be difficult. These transfers are logical since they provide facilities and lands for community use while removing unwanted and unused land and facilities from federal ownership.

Amending the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail, commemorating the Spanish settlement of the southwest United States is particularly appropriate in this year of the Cuartocentenario. 1998 is the 400th anniversary of the establishment of the first Spanish capital at San Juan Pueblo, the first terminus of the El Camino Real by Don Juan de Onate. We in New Mexico are most proud of this chapter in our Nation's history. This trail represents the migration route into the interior of the continent by Spanish settlers, and I am pleased that our nation will honor this part of its history.

Finally, the transfer included which is specific to the Carlsbad project in New Mexico, directs the Carlsbad Irrigation District to continue to manage lands as they have been in the past, for the purposes for which the project was constructed. I believe this is a fair and equitable bill that has been developed over years of negotiations. The Carlsbad Irrigation District has had operations and maintenance responsibilities for the past 66 years. It met all the repayment obligations to the government in 1991, and it's about time we let CID have what is rightfully theirs.

This legislation accomplishes three things: conveys title of acquired lands and facilities to Carlsbad Irrigation District; allows the District to assume management of leases and the benefits of the receipts from these acquired lands; and sets a 180 day deadline for the transfer, establishing a 50–50 cost-sharing standard for carrying out the transfer.

This legislation is long overdue, is not contentious, and has in fact passed out of the Senate before. I urge prompt passage in the House of Representatives.

I want to thank Senator DASCHLE for his help.

PROGRAM FOR WEDNESDAY, JANUARY 6, 1999

Mr. DEWINE. Again, on behalf of the majority leader, I understand that all legislative and Executive Calendar items that can be cleared have been considered by the Senate. I thank all of my colleagues for their cooperation during the 105th Congress.

As was stated earlier, the 106th Congress will convene at 12 noon on Wednesday, January 6, 1999, as provided for in House Joint Resolution 138.

Following the opening prayer on January 6, the Vice President will proceed to administer the oaths of office to all returning Senators and Senators-elect in alphabetical order.

Immediately following the conclusion of the oaths of office, a quorum call will commence to establish that a quorum is present for the 106th Congress to begin.

All Senators will be notified as to the first day on which legislation will be permitted to be introduced as soon as that date becomes available.

Again, on behalf of the majority leader, I thank all of my colleagues for what I believe was a productive 105th Congress and look forward to further success in the 106th Congress.

ADJOURNMENT SINE DIE

Mr. DEWINE. Mr. President, I now ask unanimous consent that the Senate stand adjourned sine die under the provisions of House Concurrent Resolution 353.

There being no objection, the Senate, at 2:33 p.m., adjourned sine die.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 21, 1998:

DEPARTMENT OF STATE

BERT T. EDWARDS, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE.

DAVID G. CARPENTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE.

DAVID G. CARPENTER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE.

MARY BETH WEST, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS, FISHERIES, AND SPACE.

EXECUTIVE OFFICE OF THE PRESIDENT

REBECCA M. BLANK, OF ILLINOIS, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

ENVIRONMENTAL PROTECTION AGENCY

NIKKI RUSH TINSLEY, OF MARYLAND, TO BE INSPECTOR GENERAL, ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF LABOR

HENRY L. SOLANO, OF COLORADO, TO BE SOLICITOR OF THE DEPARTMENT OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANE E. HENNEY, OF NEW MEXICO, TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA V. ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2003.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

JOSEPH E. STEVENS, JR., OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL M. IGASAKI, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2002.

IDA L. CASTRO, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2003.

PAUL STEVEN MILLER, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1999.

ENVIRONMENTAL PROTECTION AGENCY

ROMULO L. DIAZ, JR., OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

J. CHARLES FOX, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

NORINE E. NOONAN, OF FLORIDA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

MORRIS K. UDALL SCH. & EXCELLENCE IN NATL ENV. POLICY FOUNDATION

TERRENCE L. BRACY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOR A TERM EXPIRING OCTOBER 6, 2004.

DEPARTMENT OF THE INTERIOR

CHARLES G. GROAT, OF TEXAS, TO BE DIRECTOR OF THE UNITED STATES GEOLOGICAL SURVEY.

DEPARTMENT OF DEFENSE

BERNARD DANIEL ROSTKER, OF VIRGINIA, TO BE UNDER SECRETARY OF THE ARMY.

DEPARTMENT OF COMMERCE

KENNETH PREWITT, OF NEW YORK, TO BE DIRECTOR OF THE CENSUS.

FARM CREDIT ADMINISTRATION

MICHAEL M. REYNA, OF CALIFORNIA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2004.

DEPARTMENT OF TRANSPORTATION

EUGENE A. CONTI, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

PETER J. BASSO, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

NUCLEAR REGULATORY COMMISSION

GRETA JOY DICUS, OF ARKANSAS, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2003.

JEFFREY S. MERRIFIELD, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2002.

DEPARTMENT OF ENERGY

DAVID MICHAELS, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

DEPARTMENT OF VETERANS AFFAIRS

ELIGAH DANE CLARK, OF ALABAMA, TO BE CHAIRMAN OF THE BOARD OF VETERANS' APPEALS FOR A TERM OF SIX YEARS.

EDWARD A. POWELL, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (MANAGEMENT).

LEIGH A. BRADLEY, OF VIRGINIA, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS.

ENVIRONMENTAL PROTECTION AGENCY

ROBERT W. PERCIASEPE, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

MISSISSIPPI RIVER COMMISSION

WILLIAM CLIFFORD SMITH, OF LOUISIANA, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM EXPIRING OCTOBER 21, 2005.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

ISADORE ROSENTHAL, OF PENNSYLVANIA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

ANDREA KIDD TAYLOR, OF MICHIGAN, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

IRA G. PEPPERCORN, OF INDIANA, TO BE DIRECTOR OF THE OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING.

WILLIAM C. APGAR, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

SAUL N. RAMIREZ, JR., OF TEXAS, TO BE DEPUTY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

CARDELL COOPER, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

HAROLD LUCAS, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PATRICIA T. MONTOYA, OF NEW MEXICO, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

EXECUTIVE OFFICE OF THE PRESIDENT

SYLVIA M. MATHEWS, OF WEST VIRGINIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

OFFICE OF PERSONNEL MANAGEMENT

JOHN U. SEPULVEDA, OF NEW YORK, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT.

FEDERAL LABOR RELATIONS AUTHORITY

JOSEPH SWERDZEWSKI, OF COLORADO, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS.

POSTAL RATE COMMISSION

DANA BRUCE COVINGTON, SR., OF MISSISSIPPI, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2004.

EDWARD JAY GLEIMAN, OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2004.

GENERAL ACCOUNTING OFFICE

DAVID M. WALKER, OF GEORGIA, TO BE COMPTROLLER GENERAL OF THE UNITED STATES FOR A TERM OF FIFTEEN YEARS.

INST. OF AMERICAN INDIAN & ALASKA NATIVE CULTURE & ARTS DEV.

D. BAMBI KRAUS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

FRANK E. LOY, OF THE DISTRICT OF COLUMBIA, TO BE AN UNDER SECRETARY OF STATE.

E. WILLIAM CROTTY, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANTIGUA AND BARBUDA, TO THE COMMONWEALTH OF DOMINICA, TO GRENADA, TO ST. KITTS AND NEVIS, TO SAINT LUCIA, AND TO SAINT VINCENT AND THE GRENADINES.

ROBERT C. FELDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

JAMES VELA LEDESMA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

GEORGE MU, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

ROBERT CEPHAS PERRY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

JOSEPH GERARD SULLIVAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

ERIC DAVID NEWSOM, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE.

JOSEPH H. MELROSE, JR., OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

JOHN SHATTUCK, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

KATHRYN DEE ROBINSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

ROBERT PATRICK JOHN FINN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

SIMON FERRO, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

GEORGE MCDADE STAPLES, OF KENTUCKY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

JOHN MELVIN YATES, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.

JOHN MELVIN YATES, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

HAROLD HONGJU KOH, OF CONNECTICUT, TO BE ASSISTANT OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

R. RAND BEERS, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AN ASSISTANT SECRETARY OF STATE.

C. DAVID WELCH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE.

MICHAEL J. SULLIVAN, OF WYOMING, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRELAND.

C. DONALD JOHNSON, JR., OF GEORGIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

DEPARTMENT OF TRANSPORTATION

ASHISH SEN, OF ILLINOIS, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR THE TERM OF FOUR YEARS.

FEDERAL MARITIME COMMISSION

HAROLD J. CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2004.

JOHN A. MORAN, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2000.

INTERNATIONAL BANKS

STUART E. EIZENSTAT, OF MARYLAND, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK; UNITED STATES ALTERNATE GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS.

NATIONAL SCIENCE FOUNDATION

PAMELA A. FERGUSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004.

ANITA K. JONES, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2004.

UNITED STATES INFORMATION AGENCY

WILLIAM B. BADER, OF NEW JERSEY, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN J. PIKARSKI, JR., OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 17, 1998.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN J. PIKARSKI, JR., OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2001.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

ROBERT C. RANDOLPH, OF WASHINGTON, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

STATE JUSTICE INSTITUTE

ARTHUR A. MCGIVERIN, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2000.

DEPARTMENT OF JUSTICE

JOSE DE JESUS RIVERA, OF ARIZONA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF FOUR YEARS.

THE JUDICIARY

REBECCA R. PALLMEYER, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

NORA M. MANELLA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE MARIANA R. PFAELZER, RETIRED.

JEANNE E. SCOTT, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

DAVID R. HERNDON, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS VICE WILLIAM L. BEATTY, RETIRED.

ALVIN K. HELLERSTEIN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

RICHARD M. BERMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

DONOVAN W. FRANK, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

COLLEEN MCMAHON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

WILLIAM H. PAULEY III, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

THOMAS J. WHELAN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

DEPARTMENT OF JUSTICE

ROBERT BRUCE GREEN, OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

SCOTT RICHARD LASSAR, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS.

JAMES A. TASSONE, OF FLORIDA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

THE JUDICIARY

PATRICIA A. BRODERICK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

NATALIA COMBS GREENE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

NEAL E. KRAVITZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

LAWRENCE BASKIR, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

ROBERT S. LASNIK, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

YVETTE KANE, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

JAMES M. MUNLEY, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

LYNN JEANNE BUSH, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

DAVID O. CARTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

FRANCIS M. ALLEGRA, OF VIRGINIA, TO BE JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

MARGARET B. SEYMOUR, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

ALETA A. TRAUGER, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE.

ALEX R. MUNSON, OF THE NORTHERN MARIANA ISLANDS, TO BE JUDGE FOR THE DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS FOR A TERM OF TEN YEARS.

EDWARD J. DAMICH, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR TERM OF FIFTEEN YEARS.

NANCY B. FIRESTONE, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

EMILY CLARK HEWITT, OF MASSACHUSETTS, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

NORMAN A. MORDUE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.

DEPARTMENT OF JUSTICE

DONNIE R. MARSHALL, OF TEXAS, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.

HARRY LITMAN, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

DENISE E. O'DONNELL, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

MARGARET ELLEN CURRAN, OF RHODE ISLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS.

BYRON TODD JONES, OF MINNESOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS.

DEPARTMENT OF THE TREASURY

DAVID C. WILLIAMS, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF ENERGY

GREGORY H. FRIEDMAN, OF COLORADO, TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF ENERGY.

DEPARTMENT OF THE INTERIOR

ELJAY B. BOWRON, OF MICHIGAN, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING RICHARD M. BROWN, AND ENDING THOMAS B. ANKLEWICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING AURELIA E. BRAZEAL, AND ENDING WILLIAM L. WUENSCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 2, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING JUDY R. EBNER, AND ENDING ALLEN S. WEINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 1998.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ROBERT W AMLER, AND ENDING CHERYL A WISEMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 1998.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING MARIE A. COFFEY, AND ENDING JULIA C. WATKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7, 1998.