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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Dear God, we are astonished that You have chosen to do Your work through us and to use prayer to reorient our minds around Your guidance for the issues before this Senate. We exclaim with the psalmist, ''You are my rock and my fortress; therefore, for Your name's sake, lead me and guide me.''—Psalm 31:3. Suddenly we see our prayer for guidance in a whole new perspective. Prayer is not just for our success, but for Your sake; it is the way You orient us toward Your plans that will glorify Your name. We seek Your strength, not only for what we want, but for guidance to want what You think is best. You shape our thinking, direct our actions, create deeper trust in one another, so we can get on with Your agenda for America. You are the Instigator of prayer, the Inspiration for innovative thinking, the Initiator of boldness, so that we can live and lead with courage. May this day be filled with magnificent moments of turning to You, so that we may move forward for Your glory and not our own. For Your name's sake. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Virginia is recognized.

SCHEDULE

Mr. WARNER. Mr. President, this morning the Senate will resume consideration of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. There will be a short period of debate until 9:45 a.m., at which time the Senate will proceed to two back-to-back rollcall votes. The first vote will be on or in relation to a Sarbanes-Warner amendment regarding civilian pay, followed immediately by a vote on or in relation to a Cleland amendment regarding thrift savings.

Following those two votes, the Senate will continue consideration of S. 4, with the intention of completing action on the bill by, I would hope—there is even the possibility, and I would like to have the views of my distinguished ranking member—maybe the middle of the day. We are getting excellent cooperation from all Senators on this matter. We are quickly going through the amendments and I will momentarily address the amendments. I believe it could be done by sometime this afternoon. Therefore, Members should expect rollcall votes throughout the deliberation on this bill.

Again, the first vote is to begin at 9:45.

MEASURE PLACED ON THE CALENDAR—S.J. RES. 11

Mr. WARNER. There is one piece of housekeeping before we begin. There is a joint resolution at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 11) prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations.

Mr. WARNER. Mr. President, on behalf of the leader, I object to further proceedings on this matter at this time.

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

SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the bill.

The Senate resumed consideration of the bill.

Pending:

Sarbanes/Warner Amendment No. 19, to express the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

Cleland Amendment No. 6, to permit members of the Ready Reserve to contribute to the Thrift Savings Plan for compensation attributable to their service in the Ready Reserve.

Mr. WARNER. Now, Mr. President, with regard to the amendments, we are working out a number of these amendments. As I said, I am optimistic that this matter can be completed, hopefully by early afternoon.

The possible amendments still remaining are:

An amendment regarding Guard and Reserve participation in the Thrift Savings Plan, by Mr. CLELAND—that is scheduled for a vote, so that will soon be disposed of;

Modify the MGIB to permit reservists to transfer benefits to family members, Mr. JEFFORDS;

Permit RC to receive lump sum GI bill payments for certain courses, Mr. JEFFORDS;

Civilian pay raise of 4.8 percent; that is the Warner-Sarbanes; we will be voting on that momentarily;

Expand use of the MGIB to include prep for college and grad school entrance exams, Mr. ROCKEFELLER;

Make food stamps and WIC available to soldiers overseas—that is, soldiers, sailors, airmen, and marines overseas—Mr. HARKIN;

Sense of the Senate re: 2-month extension of the tax-filing deadline for uniformed services personnel stationed

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

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outside the United States, Mr. COVERDELL;

Sense of the Senate regarding processing of claims for veterans benefits, Mr. BINGAMAN;

Sense of the Senate regarding the possibility that provisions of S. 4 may be reconsidered during the authorization or appropriations process by my distinguished colleague, the ranking member here, Mr. LEVIN;

Technical change to section 202, Senators WARNER and ALLARD.

Now, I think that concludes it. There were several amendments by the Senator from Missouri, Mr. ASHCROFT; I have discussed those with him. And another one by Mr. JEFFORDS, and another one by Mr. LEVIN—I will be discussing those amendments. I think it is not likely they will be brought up.

At this time, perhaps my distinguished colleague, the comanager of the bill, will have a few comments?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me share the optimism of my friend from Virginia that we will be able to complete the work on this bill by early afternoon. I see no reason why we should not be able to do that. I hope, in fact, that we can.

We have a little time this morning before we start voting, which we were going to divide between the proponents of the amendments, if they would like some of these few minutes remaining. I know the manager will join me.

Mr. WARNER. The Senator is correct. I see a Member on the floor, a distinguished member of our committee, the Senator from Georgia. At the time he desires recognition, it will be given.

Mr. President, before the Senator from Georgia proceeds to give his remarks, perhaps we could call on another member of the committee, the chairman of the Manpower Subcommittee, Senator ALLARD, in hopes that he can talk a little bit about the hearing that the subcommittee will have today on the very issues that are in this bill.

Mr. LEVIN. I wonder if the Senator will withhold for a moment so we could ask the Senator from Georgia and the Senator from Maryland how much time they might want on their amendments. Since there are only 5 or 6 minutes left, perhaps we could apportion it fairly.

Mr. ALLARD. I am in no hurry to speak.

Mr. LEVIN. I wonder if the Senator from Virginia would agree if we could inquire of the two Senators whether we might divide the remaining 6 minutes between them?

Mr. WARNER. Absolutely. I will just say a word following Mr. SARBANES' remarks.

Mr. LEVIN. What would my colleague propose, three 2-minute opportunities?

Mr. WARNER. Mr. President, I ask unanimous consent that the vote then begin at 9:50, to allow time for our two colleagues to speak.

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

The Senator from Georgia.

AMENDMENT NO. 6

Mr. CLELAND. Mr. President, I am proud to offer this amendment to S. 4, with my colleagues Senator JEFFORDS, Senator BINGAMAN, and Senator LANDRIEU, to give the men and women of the National Guard and Reserve the opportunity to participate in the Thrift Savings Plan.

Members of the Guard and Reserve have been participating at record levels. Nearly 270,000 Reservists and Guardsmen were mobilized during Operations Desert Shield and Desert Storm. Over 17,000 have answered the Nation's call to bring peace to Bosina. Members of the Guard and Reserve have delivered millions of pounds of humanitarian aid all over the world. And, closer to home, they have responded to numerous state and federal emergencies. Thousands of Reservists and Guardsmen are serving in communities across the country and around the world every day.

I firmly believe we should recognize the contributions the Guard and Reserve have made to our defense efforts over the years.

We should recognize those contributions by extending to members of the Guard and Reserve the same savings opportunity we are offering their active duty counterparts under S. 4. The Guard and Reserve are an integral part of our national defense strategy. We can't afford to overlook them.

Mr. JEFFORDS. Mr. President, I wish to discuss the amendment Senator CLELAND and I have proposed. Specifically, we propose allowing our men and women in the Guard and Reserve the opportunity to participate in the Thrift Savings Plan (TSP) in the same manner S. 4 provides to their colleagues on active duty.

Allowing members of the Guard and Reserve to participate in the Federal Employees TSP is long overdue and I strongly support the proposal to make it law. This program is good for federal workers and it would benefit members of the Guard and Reserve financially for them to participate in the TSP. Under this system, they would be the sole contributors to their accounts, much like civil servants who are under the old Civil Service Retirement System. Since there would be no federal match to their accounts the cost would be very low to the branches of the military and to the taxpayers, as well. Additional savings in individual accounts will be important to those individuals who serve our Nation in regular, but temporary capacities. The payroll deduction feature of the TSP is an easy way to save. The accounts are managed prudently by the Thrift Savings Board. Participation in the system is high and satisfaction with it is also very high.

Those of us on the Health, Education, Labor, and Pension Committees have been spending quite a bit of energy trying to encourage Americans to save more money. As a New Englander, I speak for my constituents when I say that we know a lot about thrift. This is a good amendment that will encourage thrift and I hope my colleagues will support it.

Given that our Guard and Reserve are shouldering an increasing share of our world-wide missions, they should have the same savings opportunity that S. 4 gives to the active duty. Now is the time to ensure that our reserve component personnel are not overlooked.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 19

Mr. SARBANES. Mr. President, the amendment that I and Senator WARNER and Senator ROBB and Senator MIKULSKI have offered is before the Senate. This is a very straightforward amendment expressing the sense of the Congress that parity between Federal civilian pay and military pay should be maintained. We should continue that parity. A comparison by CRS of military and civilian pay increases finds that 80 percent of the military and civilian pay increases in the last 25 years have been identical. Disparate treatment goes against established congressional policy that has ensured parity with all those who work to serve our Nation, whether in the Armed Forces or in the civilian workforce.

One of the rationales for the increase for military personnel, which is in this legislation which I support, has been to address the concerns about retention and recruitment problems. We have comparable problems with respect to the civilian service, and I think it is important to note that more and more of graduating classes indicate less interest in the Federal service. A GAO report in 1990 found that low pay was the most cited reason for employees leaving the civil service or refusing to take a Federal position in the first place.

Over the years, particularly in recent years, Federal employees have made significant sacrifices in the name of deficit reduction. The law governing Federal civilian pay has never been fully implemented since 1994. In fact, Federal civilian workers received a reduced annual adjustment. The gap continues to grow, which we are very concerned about. We have been through a downsizing period during which the Federal employees have continued to provide high-quality service. So I strongly urge my colleagues to support this provision. It is an effort to achieve a first-rate public service.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am a principal cosponsor with my good friend and colleague from Maryland. I likewise very strongly urge all Senators to support this measure. We have

to keep a parity situation going. It seems the Senator from Maryland and I have worked together two decades on this very point.

Mr. President, I think it will be wise if we yield back all time now and proceed with the vote, if that is agreeable. I hear no objection. So we yield back all time.

Parliamentary inquiry. We have an amendment pending and it is now time to vote. I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Amendment No. 19 previously proposed by the Senator from Maryland [Mr. SARBANES], for himself, Mr. WARNER, Mr. ROBB and Ms. MIKULSKI.

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

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—94

Abraham	Enzi	Mack
Akaka	Feingold	McConnell
Allard	Feinstein	Mikulski
Ashcroft	Fitzgerald	Moynihan
Baucus	Frist	Murkowski
Bayh	Gorton	Murray
Bennett	Gramm	Nickles
Biden	Grams	Reed
Bingaman	Grassley	Reid
Bond	Hagel	Robb
Boxer	Harkin	Roberts
Breaux	Hatch	Rockefeller
Brownback	Helms	Roth
Bryan	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchison	Schumer
Campbell	Inhofe	Sessions
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (OR)
Cochran	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerrey	Stevens
Coverdell	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Lautenberg	Torricelli
DeWine	Leahy	Voinovich
Dodd	Levin	Warner
Domenici	Lieberman	Wellstone
Dorgan	Lincoln	Wyden
Durbin	Lott	
Edwards	Lugar	

NAYS—6

Bunning	Gregg	McCain
Graham	Kyl	Smith (NH)

The amendment (No. 19) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 6

Mr. WARNER. Mr. President, I ask for the yeas and nays on the Cleland amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—100

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

The amendment (No. 6) was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I am joined here by Senator REED. It is our joint intention to first hear from our distinguished colleague, a member of the committee, Senator HUTCHINSON, and then within 10 minutes we will take up, hopefully, the amendment. I think it is agreed to that the Senator from Iowa will have an amendment.

Thank you. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arkansas is recognized.

Mr. HUTCHINSON. I thank the Chair. I thank you for affording me this opportunity to speak on behalf of what I think is very needed legislation. I also applaud his efforts to begin the process of addressing in the committee our readiness needs, and in doing so in the most expeditious way beginning with our work in early January.

I rise in enthusiastic support of the bill of which I am glad to be a cosponsor. I have only been a member of the Senate Armed Services Committee for a short period of time, but it has not taken long to become alarmed by the numerous readiness problems weakening our Armed Forces.

On January 5, during my first hearing as a member of the Committee, the Air Force's Chief of Staff, General Ryan, testified that by fiscal year 2002, the Air Force would be short over 2,000 pilots. Overall readiness rates for the Air Force have fallen 18 percent since 1996, 4 percent in the last quarter alone.

At the same hearing, the Chief of Naval Operations, Admiral Johnson, testified that the Navy had fallen 22,000 sailors short of its fiscal year 1998 recruiting goal.

The Navy's recruiting woes were vividly illustrated in a recent New York Times article. The article described the maiden voyage of the U.S.S. *Harry S. Truman*, the Navy's newest aircraft carrier.

The *Truman* should have left port with a complement of 2,933 sailors. Instead, the Navy was only able to muster 2,543. That is a full 13 percent below what is needed.

The Navy and Air Forces are not the only services experiencing recruiting shortfalls. The Washington Times reported in January that the Army had already fallen 2,300 soldiers short of its recruiting goals for the first 3 months of this fiscal year, 10,000 soldiers short of its congressionally authorized end-strength.

The Army is so concerned about this recruiting shortfall that it is considering lowering its standards, admitting more high school dropouts, and I think this portends serious threats to the future of our readiness capability.

Are Americans being well served when they pay billions of dollars for the finest weapons systems in the world if there aren't enough highly motivated, highly trained soldiers, sailors, airmen, and marines in uniform to operate that fine equipment and fine weapons systems?

How did we arrive at this point? Recruitment and retention shortfalls are squarely to blame, and there are a number of factors that have contributed to today's circumstances. The military-civilian pay gap, I believe, is a major cause. That gap now stands at an estimated 14 percent. That is a huge handicap the military must bear when it competes with the civilian sector for high school graduates.

While America is fortunate to have a robust civilian economy, when it asks its sons and daughters to risk their lives in defense of our Nation, it must be willing to pay a fair wage. S. 4 will go a long way towards paying fair wages, thus eliminating this civilian-military pay gap.

S. 4's 4.8-percent across-the-board pay raise will help in the area of enlisted retention. The targeted pay raises of up to 10.3 percent will help the military retain its midcareer noncommissioned officers and officers who

are leaving the services in alarming numbers.

But this bill, Mr. President, isn't just about throwing money at a problem; it is also about fixing the mistakes of the past. S. 4 would restore a 50-percent basic pay retirement benefit at 20 years of service. That benefit, as we all know, was cut to 40 percent in 1986 as part of an effort to actually improve retention.

You see, in the 1980's, too many service men and women were electing to retire right after the 20-year mark, enjoying that 50-percent pension while they were young enough to begin a second career. In what seemed to be a smart move at the time, the Congress instituted the REDUX system, lowering the retirement benefit for 20 years of service to 40 percent. Unfortunately, the legislation, as too often is the case in what we do, has had the opposite effect; the REDUX system's smaller pension has encouraged people to leave the services even earlier.

How ironic that in 1999 the Department of Defense would be thrilled if service men and women left military service after only 20 years. That would mean they had served more than the 12 or 13 years so many of our junior officers are now serving before leaving today.

But this bill does more than just fix some of yesterday's mistakes; it addresses some of today's concerns. For our men and women in uniform, S. 4 is about creating a brighter tomorrow as well. The Montgomery GI bill enhancements contained in this bill, while controversial, will do for military families what the original GI bill did for our soldiers. Increasing the monthly GI plan allowance and allowing service members to transfer their benefits to members of their immediate family will dramatically increase the accessibility of higher education in this country.

Extending Montgomery GI bill benefits will also go a long way towards recognizing the important contributions made by military families. I have spoken to enough husbands and wives, sons and daughters, of service members to know that a military career punctuated by overseas deployments affects more than just the person wearing the uniform. Families of service members are truly part of a larger team, and they deserve more than just a pat on the back and saying thanks.

Then I would add also that opening the Thrift Savings Plan to service members is another very important feature of S. 4. Allowing members to invest up to 5 percent of their income in the same program open to civilians will allow service members greater retirement security. As we have seen, the looming Social Security crisis threatens retirement for many individuals, and we know that individuals must take greater responsibility for those retirement savings.

So as you can see, Mr. President, S. 4, while not a panacea for the readiness shortfalls affecting today's military, will fix some of yesterday's mistakes, help us to address some of the crises we are facing today, and provide a brighter tomorrow for our men and women in the armed services.

So I urge my colleagues to join the members of the Armed Services Committee to pass this much needed legislation.

I once again thank and compliment the chairman of the committee for the outstanding work he has done in moving this legislation forward so expeditiously in this Congress.

I thank you, Mr. President. I yield the floor.

Mr. WARNER. Mr. President, I wish to congratulate our new colleague on the Armed Services Committee for those very insightful and helpful remarks. We are pleased that the Senator elected to join our committee, given all the other options that were open to the Senator. I thank the Senator very much for his cooperation on the bill, for his helpfulness, and we look forward to working with the Senator in the future.

Mr. HUTCHINSON. I thank the Senator. I look forward to that.

Mr. WARNER. Now, Mr. President, I understand the Senator from West Virginia wishes to offer an amendment.

Mr. ROCKEFELLER. I thank my distinguished colleague from the State of Virginia.

AMENDMENT NO. 21

(Purpose: To provide for the availability of Montgomery GI Bill benefits for preparatory courses for college and graduate school admission exams)

Mr. ROCKEFELLER. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself and Mr. BINGAMAN, proposes an amendment numbered 21.

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

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

The amendment is as follows:

On page 46, between the matter following line 5 and line 6, insert the following:

SEC. 305. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

For purposes of section 3002(3) of title 38, United States Code, the term ''program of education'' shall include the following:

(1) A preparatory course for a test that is required or utilized for admission to an institution of higher education.

(2) A preparatory course for test that is required or utilized for admission to a graduate school.

Mr. ROCKEFELLER. I thank the Chair very much, as I always do, for his uncanny ability to maintain order in the Senate, which is unparalleled.

Mr. President, as Ranking Member of the Committee on Veterans' Affairs, I have an especially strong interest in issues that improve the quality of life for the men and women who now serve and have already served in our Nation's military forces. These brave men and women often face extreme hardships in their service to our country, and later, in their efforts to successfully transition back to civilian life. S. 4, the ''Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999,'' goes far to address some of these hardships.

I believe that a major impetus of S. 4 is to enhance the military's ability to attract and retain the best young men and women to the ranks of America's Armed Forces. But S. 4 also has the collateral effect of improving the lives of servicemembers by providing them with a much-needed pay increase and eliminating the $1,200 contribution that servicemembers must make to the Montgomery GI bill during their first year in service, while their salaries are at their lowest.

S. 4 will also improve these servicemembers' transition to civilian life by increasing the basic monthly allowance of the MGIB from $528 to $600. This 12 percent increase follows on the heels of a 20-percent increase last year. The Congressional Commission on Servicemembers and Veterans Transition Assistance—the ''Transition Commission'' or ''Commission''—recommended such an increase in its report to Congress, last month.

The Commission was inspired by our former colleague, Senator Bob Dole, and provides data and recommendations on ways to improve the transitional period. The Commission's report highlights the fact that costs of tuition and fees for public and private educational institutions rose approximately 90 percent from 1980–1995, while the MGIB benefit rates only increased 42 percent from 1985 to 1995.

The statistics regarding education and employment for veterans are revealing. Despite almost full enrollment in the program by servicemembers, the number of eligible veterans who take advantage of their MGIB benefits is startlingly low, only 48 percent. Less than 20 percent of those who use the MGIB attend private institutions. And the Transition Commission reports that the unemployment rate for veterans ages 20–24 and 35–39 is higher than their non-veteran counterparts. All these are reasons why I believe that there is more that we can and must do.

The Department of Veterans Affairs currently has authority to provide MGIB benefits for post-graduate exam preparatory courses that are required for a particular profession, such as CPA exam or bar review courses. However, it does not have authority to provide for pre-admission preparatory coursework.

The amendment I am offering would correct that disparity by allowing veterans to use their MGIB benefits for preparatory courses for entrance examinations required for college and graduate school admission. It would

not increase a veteran's basic entitlement or affect eligibility for benefits.

By giving veterans the opportunity to better their admission test scores, this amendment would expand the choices available to veterans in their course of higher education. It will also improve access to the top educational institutions for veterans who sometimes were not the best students in high school, but are now better focused and committed to their education.

Studies by national consulting companies have shown improvement of over 100 points on the SAT exam and an average improvement of seven points in LSAT scores for students who take exam preparatory courses. At some of the Nation's top schools, scores on entrance exams can count for half of the total application.

An article in the April 13, 1998, *New Republic* stated, ''Thorough, expertly taught preparation can raise a student's ability to cope with, and hence succeed on, a particular exam. In many cases, then, test prep can make the difference between getting into a top-flight law school and settling for the second tier.'' That is why it is critical that veterans have access to such courses.

However, many of these exam preparatory courses are quite costly. One national provider charges as much as $750 for a two-month, part-time, SAT preparatory course. One educational advocacy group, Fairtest, argues that ''[t]he SAT has always favored students who can afford coaching over those who cannot . . .''

The Transition Commission urged Congress to enact legislation that would fully fund a veteran's education at a college of their choice, so that veterans would not be limited by cost, but only by their own abilities. I believe that we should also assist veterans to enlarge the boundaries of their abilities. This is an investment in America's veterans and in America. Data from the VA shows that during the lifetime of the average WWII veteran, the U.S. Treasury received from two to eight times as much in income taxes as it paid out to the veteran in GI Bill benefits. Just imagine the return on investment from this small change in law.

It is simply a matter of common sense. The government provides veterans the opportunity to get a higher education. We should now do what we can to make sure that veterans are getting the best education that they possibly can, by helping them to get into the best school possible.

I am proud to offer this amendment to improve our veterans' ability to transition successfully from military to civilian life, and would like to thank the Chairman and Ranking Member of the Armed Services Committee for their support. I encourage my colleagues to join me in this effort.

Mr. WARNER. Mr. President, we thank the Senator from West Virginia for bringing this to the attention of the committee. The amendment is cleared on this side. It is an excellent piece of legislation. Because our current generation is faced with test after test after test, indeed, they do need some help from time to time. This amendment will facilitate the use of funds which, I think, had it been envisioned at the time the original legislation was written, would have been included. So the Senator has come along to help our veterans a great deal. The amendment is accepted on this side.

Mr. ROCKEFELLER. I thank the Senator.

Mr. REED. Mr. President, we also commend the Senator from West Virginia for his amendment, and I concur with the chairman's remarks. This would not materially increase in any way the costs associated with the Montgomery programs, and it would also provide additional opportunities for service members to pursue higher education. It is something that is consistent with the legislation, and it is an amendment which we support with enthusiasm.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. I urge adoption, Mr. President.

The PRESIDING OFFICER. If not, the question is on agreeing to the amendment offered by the Senator from West Virginia.

The amendment (No. 21) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 22

(Purpose: To make certain technical corrections)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Colorado and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. ALLARD, proposes an amendment numbered 22.

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

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

The amendment is as follows:

On page 21, line 19, insert ''2000,'' after ''JANUARY 1,''.

On page 21, line 23, strike out ''(1)''.

Beginning on page 22, in the table under the heading ''COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER'', strike out the superscript ''4'' each place it appears in the column under the heading ''Pay Grade''.

Beginning on page 27, line 25, strike out''the Secretary of Health and Human Services'' and all that follows through ''Administration),'' on page 28, line 4.

Mr. WARNER. Mr. President, this is a technical correction to section 202 of the bill. When the Armed Services Committee drafted S. 4, it was our intent to permit the enlistment, reenlistment, and the REDUX bonus to be deposited directly into a service member's Thrift Savings account. In order to accomplish this, it was necessary to waive the limit on annual contributions to the Thrift Savings account. S. 4 as reported does not include the waiver. However, after the bill was reported, the Thrift board, which administers the Thrift Savings Plan, notified the committee that one of the additional statutory requirements was necessary—and that is the purpose of this amendment; it corrects the unintended oversight. Therefore, I believe this amendment is acceptable on both sides.

Mr. REED. Mr. President, we agree this amendment is necessary to accomplish the purposes of the bill, and we support it.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 22) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I think our distinguished colleague from Iowa desires to speak to the Senate.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 23

(Purpose: To facilitate provision of effective assistance for members of the uniformed services eligible for food stamp assistance)

Mr. HARKIN. Mr. President, I send an amendment to the desk and for myself and Mr. BINGAMAN ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. BINGAMAN, proposes an amendment numbered 23.

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

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

The amendment is as follows:

On page 25, strike lines 10 through 15, and insert the following:

(b)(1), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance, as determined by the Secretary.

''(b) COVERED MEMBERS.—(1) A member referred to subsection (a) is an enlisted member in pay grade E–5 or below.

''(2) For the purposes of this section, a member shall be considered as being eligible to receive food stamp assistance if the household of the member meets the income standards of eligibility established under section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), not taking into account the special subsistence allowance that may be payable to the member under this section and any allowance that is payable to the member under section 403 or 404a of this title.

On page 28, between lines 8 and 9, insert the following:

SEC. 104. IMPLEMENTATION OF THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) CLARIFICATION OF BENEFITS RESPONSIBILITY.—Subsection (a) of section 1060a of title 10, United States Code, is amended by striking ''may carry out a program to provide special supplemental food benefits'' and inserting ''shall carry out a program to provide supplemental foods and nutrition education''.

(b) RELATIONSHIP TO WIC PROGRAM.—Subsection (b) of such section is amended to read as follows:

''(b) FEDERAL PAYMENTS.—For the purpose of providing supplemental foods under the program required under subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense for each of fiscal years 1999 through 2003, out of funds available for such fiscal year pursuant to the authorization of appropriations under section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)), $10,000,000 plus such additional amount as is necessary to provide supplemental foods under the program for such fiscal year. The Secretary of Defense shall use funds available for the Department of Defense to provide nutrition education and to pay for costs for nutrition services and administration under the program.''.

(c) PROGRAM ADMINISTRATION.—Subsection (c)(1)(A) of such section is amended by adding at the end the following: ''In the determining of eligibility for the program benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) shall be considered eligible for the duration of the certification period under that program.''.

(d) NUTRITIONAL RISK STANDARDS.—Subsection (c)(1)(B) of such section is amended by inserting ''and nutritional risk standards'' after ''income eligibility standards''.

(e) DEFINITIONS.—Subsection (f) of such section is amended by adding at the end the following:

''(4) The terms 'costs for nutrition services and administration', 'nutrition education' and 'supplemental foods' have the meanings given the terms in paragraphs (4), (7), and (14), respectively, of section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).''.

(f) REPORT.—Not later than March 1, 2001, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall submit to Congress a report on the implementation of the special supplemental food program required under section 1060a of title 10, United States Code. The report shall include a discussion of whether the amount required to be provided by the Secretary of Agriculture for supplemental foods under subsection (b) of that section is adequate for the purpose and, if not, an estimate of the amount necessary to provide supplemental foods under the program.

Mr. HARKIN. Mr. President, first I want to most sincerely compliment the distinguished Senator from Virginia, the chairman of the committee, and the ranking member, Senator LEVIN, for bringing this bill to the floor so expeditiously. The pay structure of the military needs to be addressed. We are losing too many good people.

Last summer I happened to find myself up in Iceland, talking to some of the pilots up there who are performing pretty hazardous flying duty. I remember I met in the Oak Club with a bunch of them. They were pilots, highly trained—maybe they had been in 7 or 8 years—and now they are getting out. A lot of them wanted to stay but simply because of the families they had, the pay just wasn't there. We just cannot afford to keep losing that many good people out of the military. So this bill is long overdue, but it is welcome relief for a lot of our military families. I think it will go a long way toward retaining a lot of our qualified people.

I know it is 4.8 percent. Frankly, if it was 5 percent, I would vote for it. If it was 6 percent, I would support it. I know we have budgetary constraints, but with a volunteer force like we have, and with some of the duty these people have to pull now in faraway places for a long period of time, not knowing what is around the corner, we have kind of a different situation than it was when the two of us were in the military some years ago.

I think this is a good shot. It is needed right now. I know the chairman well. I know he feels very deeply about this and about the pay of our armed services personnel. But I hope we have an ongoing process to continue to look at this so we do not have these big gaps and lags in time when we lose a lot of our people. To whatever extent I can be helpful, I look forward to working with the distinguished chairman in this regard as we move ahead.

Mr. WARNER. Mr. President, if the Senator will just yield, our good friend and colleague here has a distinguished career in the Navy, in aviation. As a pilot, he understands the risks that pilots undertake every day. People always think the risks only occur in combat. Those of us who were in training commands many years ago know it is quite different. Indeed, in combat are the aviators over Iraq this morning, enforcing U.N. Security Council resolutions. And pilots are awaiting the instructions with regard to the fighting that is going on in Kosovo. So this is a major piece of legislation to retain those people.

I would just like to rhetorically ask my good friend a question. I know there is great concern among some of our colleagues, genuine concern, that this bill represents an awful lot of money. But I ask my colleagues, what good are the planes and the ships and the other equipment that we buy if there are not qualified people to operate them? Am I not correct, Senator?

Mr. HARKIN. The Senator is absolutely correct. And especially now.

In my time, I thought it was just overwhelming when I was flying a plane that cost $1 million.

Mr. WARNER. For the record, it was a F–4, wasn't it?

Mr. HARKIN. An F–4. I think $1 million or $1.5 million, something like that for the F–4s and F–8s.

Mr. WARNER. I think we had about 7,000 at one time, compared to the aircraft buys of a half dozen or a dozen now.

Mr. HARKIN. And they are up to the hundreds of millions of dollars. You entrust these airplanes to the pilots that are in their twenties. Sometimes I look at these pilots and think: Was I ever that young when I was flying an airplane? And these young men and women take extraordinary risks every day we send them off those catapults and a lot of times into dangerous situations. We just have to keep that in mind.

The Senator is right. We can build the best aircraft, and we do, and they are highly sophisticated now, but unless you have that trained individual, who is not only trained but dedicated and wants to stay there, you are lacking something. That machine does not mean a darned thing. So that is why this bill is so important. Again, I compliment the chairman for taking this and really pushing it through.

There is one thing, I say to my friend from Virginia, that came to my mind a couple of years ago. I am on the Defense Appropriations Committee, I am not on the authorizing committee, but it came to my attention here 2 or 3 years ago when I got on this issue of military people being on food stamps. It is just something about which I had not thought. It never occurred to me. It never hit me.

I am on the Ag Committee, and of course I have been involved in the Food Stamp Program, and it is a good program. The Senator in the chair has been a strong supporter of the Food Stamp Program too, in the past. It is a good thing. But it just hit me as wrong. There is something wrong when our people in uniform qualify for food stamps. For some reason that just did not seem right to me. So I started a process of looking at it and writing letters to the Department of Defense, trying to get as much information as I could on this.

Senator DOMENICI and I put some language in a bill once to get some data on this, as much as we could. We got bits and pieces of it, but we never really got all the information we needed. But we did find out that there were literally thousands of military personnel who, today, are on food stamps and who also get the WIC Program, the Women, Infants and Children Program, because they fall below that level.

Again, to the chairman's great foresight, he did address this in this bill.

Mr. WARNER. Mr. President, if the Senator will yield, I want to make it very clear—people don't try to take credit around here, but I think others should acknowledge that they should receive it, and in this instance Senator MCCAIN has been the Senator on our committee who has, time and time again, brought this to the attention of the committee, indeed the Senate as a whole. I have heard him address the American public in many forums on this issue. It was his work, and, indeed, the Presiding Officer had a hand in this issue also, the distinguished Senator from Kansas.

Mr. HARKIN. Again, the Senator from Virginia shows the gentleman

that he really is by acknowledging the input of others into this issue, and I appreciate that. But the bill we have before us provides for a $180 bonus payment to any person in the armed services who qualifies for food stamps. That is a great step. I applaud it. I support it wholeheartedly. But, again, in looking at it, I think there are some areas that maybe need to be addressed further, and that is the purpose of my amendment.

For example, the $180 bonus applies to service people in the country, in the United States, but not to service people overseas. Again, having served in the military and having been stationed overseas, I can tell you a lot of times it is a lot more expensive, especially if you are stationed in Japan or places like that where it is much more costly, much more expensive than it is for the people here in the States. So what my amendment would do would apply the $180 not just to personnel in the United States but to people overseas. It just extends it to them also.

Second, under the bill, the process to get the bonus is they would first have to go to the food stamp office and get some paperwork done and show that they qualify. Then they come back to DOD and give them this documentation. Then they take other documentation back to the USDA. It was kind of a three-step process.

What my amendment says is all they have to do is go to their personnel office, their paymaster for example, and say: Look, you know what my pay is. Here is my pay. You know how many dependents I have. The only thing that is missing is spousal income. So they would just document what their spousal income is. The military already has records on their dependents and their pay. And if they qualify, that is the end of it. They do not have to go through this bureaucratic nightmare of going to the USDA office and back and forth; it would be just a one-step process. So my amendment tries to streamline that.

Third, again—one of these Catch-22 situations we have here—if you live off base and you get a housing allowance, then that is—let me put it this way: It is counted in whether or not you are eligible for the $180.

What my amendment says is if you get housing allowance, that is off the table, that is not counted as part of that, because in a lot of cases, housing allowances are eaten up by housing. It really doesn't add anything to their income. That is the third thing the amendment does.

The last thing my amendment does is under the WIC Program, the Women, Infants and Children Program, if you are overseas—you can get it here, but you can't get it overseas. You would get the money in lieu of that. I am told that the average basic WIC allowance is about $32 a month for food; $10.50—is that right?—for administration. It is about $42 a month. That will be added for people who are overseas. If they were here, they could get WIC, but if they are overseas, they can't get it.

Again, in terms of how much this costs, 2 years ago, we did have an amendment on the bill asking the DOD to give us the numbers on WIC and food stamps, and we have never received those figures from the Department of Defense. I don't know why we can't get them, but we can't get them. I did get a letter last August. I have to tell you, and I say this in all sincerity to my friend from Virginia, this letter disturbed me a little bit.

I am going to read one paragraph of it. It is responding to section 655 of the National Defense Authorization Act for fiscal year 1998. It required the Department of Defense to conduct a study of the members of the Armed Forces and their families who are at, near, or below the poverty line. It was sent to Chairman THURMOND and Senator LEVIN last August 18.

Here is a paragraph that really disturbs me. I quote from the letter:

> Pay raises targeted to junior enlisted grades with the objective of eliminating poverty or food stamp usage are expensive and not consistent with the objectives of military compensation.

Wow. Not consistent with the objectives of military compensation?

> The Department does not support these measures. Nor does the Department support pay raises that provide greater percentage increases in basic pay and/or allowances to junior members. Such a policy will disadvantage the senior enlisted and officer forces relative to their civilian counterparts.

I really don't understand that at all.

> It will also adversely impact retention, morale, and productivity.

Wait a minute, we are going to raise junior enlisted people above the poverty line, give them a bonus in lieu of food stamps here and abroad, and that will adversely impact retention, morale and productivity? I am sorry, I don't understand this.

Mr. WARNER. Will the Senator allow me to state the following? I am personally in favor of your amendment, and we have put a request in to the Department of Defense to update the very facts you are addressing here.

Therefore, pending receipt of that information from the Department of Defense, I respectfully ask that we lay your amendment aside after you, of course, have completed your presentation of the amendment, and then during the course of the next few hours, I will keep you advised with regard to the information that will hopefully be forthcoming, at which time the Senate can address the amendment presumably in a rollcall vote and hopefully sometime this afternoon. That is this Senator's intention.

Mr. HARKIN. That is fine with this Senator.

Mr. WARNER. I assure the Senator, we are diligent in trying to pursue this same information and get an update.

Mr. HARKIN. I appreciate that. I will finish my statement very shortly, Mr. President.

Again, this one paragraph really bothers me. Again, I don't understand how the Department of Defense can say that:

> [It does not] support pay raises that provide greater percentage increases in basic pay and/or allowances to junior members.

I can see in terms of basic pay, but not allowances in terms of food stamps, for example. Then they say it will adversely impact retention, morale and productivity. I wish someone would explain that one to me.

Mr. President, I ask unanimous consent to print in the RECORD the executive summary from which I quoted.

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

EXECUTIVE SUMMARY

Military pay is intended to be sufficient to meet the basic needs of all members—this is a fundamental premise of the all-volunteer force. Yet, we find that some military members have pay and allowances that place them at the poverty level or eligible to receive food stamps and other forms of federal assistance. These findings are troublesome to many and raise the question as to the adequacy of military pay. This report responds to a congressional request (P.L. 105–340, sec. 655) that the Secretary of Defense conduct a study of poverty and the military. Specifically, Congress asked that the study include:

An analysis of potential solutions for ensuring that members of the Armed Forces and their families do not have to subsist at, near, or below the poverty level, including potential solutions involving changes in the system of allowances for members.

Identification of the military populations most likely to need income support under Federal Government programs, including: (i) The populations living in areas of the United States where housing costs are notably high; (ii) the populations living outside the United States; and (iii) the number of persons in each identified population.

The desirability of increasing rates of basic pay and allowances for members over a defined period of years by a range of percentages that provides for higher percentage increases for lower ranking than for higher ranking members.

The Department has identified 451 members, less than 3/100th of one percent of the military population, that could potentially be at or below the poverty level. The most junior of these members has a family size of 5 or greater in a grade where 86% of members are single. The average age of this entry grade is 19. For careerists to be below the poverty level requires a family size of at least 8.

Eligibility for food stamps, poverty programs, and other federal assistance is negatively correlated with high housing costs. The Department offsets high housing costs through the basic allowance for housing (BAH) and, before BAH, the variable housing allowance program. Under BAH, members will have exactly the same out of pocket expenditure by grade no matter where in the United States they are stationed. Because members receive higher allowances in high-cost areas while the gross income criterion for eligibility is fixed in CONUS, it is more, rather than less, difficult to receive assistance benefits in high housing cost locations.

Members stationed overseas are not eligible for federal assistance programs such as food stamps. These programs are administered by state agencies within the United States and there is no state sponsor in overseas locations. Overseas housing and cost-of-

living adjustments are more generous than those in the U.S. The overseas housing allowance (OHA) reimburses housing costs fully up to the 80th percentile. That means that 80% of our members have their full rent and utilities paid by the allowances. Overseas COLAs supplement income to reduce overseas living costs to the U.S. average.

Pay raises targeted to junior enlisted grades with the objective of eliminating poverty or food stamp usage are expensive and not consistent with the objectives of military compensation. The Department does not support these measures. Nor does the Department support pay raises that provide greater percentage increases in basic pay and/or allowances to junior members. Such a policy will disadvantage the senior enlisted and officer forces relative to their civilian counterparts. It will also adversely impact retention, morale, and productivity. Pay compression will be further aggravated by policies that attempt to lower senior enlisted and officer pay relative to junior enlisted.

Other measures such as targeted allowances for large families are also not supported by the Department. Such allowances increase inequities between singles and those with dependents while creating inequities betweeen members with average as opposed to large families.

The Department does support efforts to treat members on- and off-base equitably when applying for federal assistance. Specifically, the Department feels that the value of inkind housing received by members living on base should be included in any calculation of gross income.

Mr. HARKIN. Mr. President, lastly, the chairman, I know, is trying to get some figures from the Department of Defense on how much this costs. We have an estimate right now that the provision in the bill itself that provides for the $180 payment in lieu of food stamps will cost, at most, $26 million a year through the year 2004—$26 million a year through the year 2004.

What Senator BINGAMAN and I are seeking to do is extending this overseas, streamlining the process—that doesn't cost anything—not counting the basic housing allowance and getting the $42 a month in the WIC payments to troops stationed overseas.

Mr. President, I will bet you my bottom dollar and anything I have that it will not even double it. It can't double it. It would be impossible to double it because we have more people in the United States than we have stationed overseas. But even if it did double, we are talking about $52 million a year. I think the DOD budget next year is something like $270 billion. We can't afford $52 million?

I am saying that would be the maximum if you double it. We would have exactly the same number of people overseas in the same pay grade than we have stationed here, and we know that is not so. I await the figures from the Department of Defense to see what they say. Since they have already given us an estimate of $26 million on the provision in the bill, I will be surprised if it comes in anything more than perhaps—oh, I will take a guess —$35 million a year probably, just off the top of my head.

Even if it doubled it, which it can't—there is no way it can—you are talking about $52 million a year. I think that is a small price to pay to make sure that none of our military people are on food stamps and that they are eligible to get the payment through the WIC Program if they are overseas.

Mr. President, I ask unanimous consent to print in the RECORD a letter from Marilyn Sobke, president of the National Military Family Association, in which she states:

The National Military Family Association strongly supports your amendment that would finally extend the benefits of the [WIC] Program to eligible military families stationed overseas.

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

NATIONAL MILITARY FAMILY ASSOCIATION,
Alexandria, VA, February 19, 1999.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: The National Military Family Association (NMFA) strongly supports your amendment that would finally extend the benefits of the Women's, Infants' and Children's nutrition program to eligible military families stationed overseas! As you are aware, Senator Harkin, NMFA has long supported a solution to the problem for these families, who lose their WIC benefits simply because their country sends them to overseas duty stations.

The amount of mail NMFA receives from both overseas social agencies and individual families regarding the need for WIC benefits has increased each year, even as the number of families stationed in many of these areas has decreased. We thank you again for your steadfast concern for these military families.

Sincerely,

MARILYN SOBKE,
President.

Mr. HARKIN. Mr. President, as I understand it, we will set my amendment aside and await the figures from the Department of Defense. In the meantime, I hope Senators will support this amendment. It is not going to cost that much, but it has the objective of making sure that no one who puts on the uniform of the United States has to go down and stand in line to get food stamps. If nothing else, we ought to end that. Thank you, Mr. President.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, the amendment is set aside.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Thank you, Mr. President.

I would briefly like to comment on Senator HARKIN's amendment and then make more generalized comments on the bill overall. But first let me speak to Senator HARKIN's amendment.

I commend him for his initiative. He is responding to the needs of the youngest, most junior members of our military forces who need this type of support not only to provide for themselves and their families but to have the mental attitude and the freedom of mind, if you will, to commit themselves to a military career, and to do so from the very beginning of their careers so they start off on the right foot and they develop successfully as professional soldiers, sailors, airmen. All of this is very important. I commend the Senator for his initiative and I hope we can work out the budgetary aspects of this legislation and adopt this amendment.

Now let me turn to the bill in general.

First, let me commend the chairman and all of my colleagues on the committee for recognizing the seriousness of this problem of retention and recruitment. Indeed, it is a very serious problem. And this is a very serious solution, because it not only provides for resources for recruitment and retention, it does raise very legitimate and very significant budgetary issues which I will address as I discuss the issues overall.

Let there be no mistake, there is a retention and recruitment problem within the military services today. Each year, the Department of Defense is responsible for recruiting 200,000 men and women to fill the active ranks of the military forces in the United States.

In fiscal year 1998, the services were only able to recruit 180,000 new soldiers, sailors, airmen, and marines. While the Air Force and Marines were able to achieve their recruiting goals in 1998, the Army fell short by 776 personnel, and the Navy was short by a significant number, 6,892. This is a problem and it is a problem that is getting worse.

In the first 4 months of fiscal year 1999, the Marines again made their recruiting goal, and so did the Navy, but the Army fell short, reaching only 87 percent of its required strength level, and the Air Force only 94 percent of their required strength level.

There is a problem with recruitment. And we know if you do not get good personnel to enter the military forces you cannot keep the strength levels up. There is also the associated problem of retaining these good individuals as they go through their military careers. Every service—and many of my colleagues have pointed this out—is struggling to keep pilots. These are highly skilled positions. These positions are not easily replaced. It takes years not only of training but of experience to develop the kind of combat skills necessary for an effective pilot.

In the Air Force, for example, for every two pilots who enter the service, they are finding that three are leaving. That ratio is going to cause profound problems going forward. As my colleague from Arkansas pointed out, General Ryan in the Air Force estimated by fiscal year 2002 the Air Force would be 2,000 pilots short. That is a serious erosion of our national security posture.

The Navy is experiencing the problems of recruiting and retaining surface warfare officers. This causes them to extend sea duty by months and months and months, putting additional

pressure on military personnel. And it is this vicious circle, of fewer people to do the job, causing those who are on active duty to do more and more and more, that is adding additional pressure to the retention problem.

This legislation addresses this problem very directly and with great gusto. There is a 4.8-percent pay increase. And that will not only make the daily lives of military personnel easier—not only give them the resources to provide for their families—it will also be a strong symbolic gesture that will show that this Congress understands the value of our men and women in the military forces. That symbolic, as well as very practical, response is very, very important.

Also, this legislation will reform the pay table so that we can begin to reward more effectively and efficiently those midlevel noncommissioned officers and officers. These are the key people who make our military services the best in the world. They are the squad leaders; they are the platoon sergeants; they are the young officers who are at the front doing the job out on patrol in Bosnia and other places. It is individuals who are so important to our military services. With the new pay tables, we will be able to provide better incentives and we hope provide better retention incentives for these individuals.

There is another measure in this bill which is also very important, and that is extending the Montgomery GI bill benefits not only to individual military personnel but also to their families. I must commend Senator CLELAND, my colleague, whose idea it was. He was the source of this language. It is very powerful language, because when you look at the retention problem, you find you are talking generally about men and women who are in their late twenties, early thirties. They have 12 years of active duty or so. They are also looking at their families and seeing children, 10, 11, 12 years old and beginning to understand really—not just theoretically—but really that they have to do something to put these children through college. And this provision will help them do that by allowing their benefits to be used for their children.

This bill has many commendable components. Again, it stretches the budget dramatically. And that is an issue we have to deal with. But the principles included in this bill are very worthy of support.

Let me suggest also, though, that this issue is not just about pay and compensation. Recruitment and retention are not just about pay and compensation. It is an important part, it might be the most salient issue, the one that we should deal with immediately and directly, but it is not the only issue, because there are many other factors that influence whether an individual will enter the military and, in many, many cases, whether that individual will stay on active duty.

For example, there is the issue of operational tempo. We are stretching our military forces very, very thin. They are deployed in countries around the globe. They are deployed constantly. When they finish one deployment, they come home, they retrain, and suddenly, before expected in many cases, they are out once again in another deployment. This puts tremendous pressure on family life, puts tremendous pressure on the individual service members and their families. That is an issue we have to deal with. And we are not dealing with it simply by raising pay and allowances.

Then there is the issue of readiness. The degree that we take money and put it into the personnel pay side is less money that we will have available for other issues of readiness—frankly, other issues with regard to the equipment that they have and that they believe they must have to do their jobs. That is another issue.

Finally, there is the issue which I alluded to about family concerns. The military is changing. This is not the same military we had 20 years ago or 30 years ago. This military is more a family organization in which it is quite likely that younger military personnel will have family and will have dependents. It is also a situation now where the spouses of military personnel have to work. They have to work because, like so many families in America, they need two paychecks even if we increase the pay.

But in many cases you have spouses who feel that their own professional and personal development require them to work. And it is very difficult, particularly when you reach that 30-year-old mark with someone who is a spouse who has a job, for them to pick up and suddenly move from one post to another. It might be a good change of assignment for the military member, but it could mean the death knell of the career for the spouse. That is another factor.

There are limited opportunities for advancement. The military has gotten smaller. There is also, in this economy, the law of private incentive. We will never be able to pay as much money to a pilot as American Airlines or Delta. So increasing pay is important, but we also have to recognize that there are many, many other forces at work. When you consider these additional factors, you also have to recognize that it is, I think, probably more prudent to try to do this legislation in the context of the overall authorization bill and not separately. And it is also prudent to wait for some information and some analysis that will shortly be forthcoming.

The Department of Defense, CBO, and GAO are studying these problems as we speak. We would be very prudent, I think, to wait for their information.

For example, the GAO report will indicate, we believe, that the biggest complaint among military personnel—this is from a Defense Week article of February 22—is not pay and allowances; it is heavy workloads, job dissatisfaction, and poor health care. So, again, we are moving promptly to address this issue, but a little bit more circumspection might reward us with a better ultimate product.

We are considering this bill today. We should consider this bill today.

We also should be very conscious of the cost factors involved.

We understand that this bill will likely be about $12 billion more than the President's proposal. That proposal has been fully paid for within the budget. We have to ask ourselves sincerely and reasonably, will this additional increment of billions of dollars make a difference in recruitment and retention? Second, where will we get these funds? These are legitimate questions that we have to consider.

Secretary Cohen is acutely sensitive of these issues. In a February 19 letter to Senator LEVIN, he said:

> I am concerned that until there is a budget resolution that sets the defense budget level, this bill constitutes an unfunded requirement on the Department. Absent an increase in the topline for Defense, these items will only displace other key elements of our program. It would be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities.

Therefore, as enthusiastic as we are to see that military men and women are rewarded in pay and benefits for their great services to the country, we have to be very, very careful when it comes to this increase in the amount of spending because it could result in cuts in other programs, in modernization programs, in other types of family-like programs which might be equally important to ensure retention of military personnel.

I understand and I support what we are trying to do in concept. I believe that this legislation must be changed, though, ultimately to recognize the severe budgetary constraints before we can accept it as law. I hope that when this bill comes back from conference it will not only have these very, very worthy elements, but it will be within a budget cap that we all agree is appropriate for not only the Department of Defense, but for our overall efforts.

We have a responsibility to our soldiers, our sailors, our airmen, our marines, a responsibility to our taxpayers. We have to discharge both. I hope we pass this legislation, that we bring it back from conference in a much more constrained budgetary form. If we don't do that, I very well may be compelled to oppose it at that point. Today, I support it. I support it because the principles it includes are important. They address the fundamental problem in the military. It will represent, I hope, progress towards a final, more balanced solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the committee, we welcome the

Senators joining our committee this year. Senator REED brings a distinguished background in the military services, having been on active duty himself at one point. It was an excellent statement.

Mr. President, I see another one of our very valued ''old-timer'' Members seeking recognition, so I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Dana Krupa, a fellow in my office, be allowed floor privileges during the pendency of this bill.

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

Mr. BINGAMAN. Mr. President, I thank my colleague from Virginia and compliment him and the Senator from Michigan, my good friend, Senator LEVIN, for their leadership in getting this set of issues before the Senate and ensuring quick progress in dealing with the very real issue that faces our military personnel.

AMENDMENT NO. 24

(Purpose: To state the sense of the Senate regarding the processing of claims for veterans' benefits)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and I ask that amendment be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 24.

Mr. BINGAMAN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. SENSE OF SENATE REGARDING PROCESSING OF CLAIMS FOR VETERANS' BENEFITS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Despite advances in technology, telecommunications, and training, the Department of Veterans Affairs currently requires 20 percent more time to process claims for veterans' benefits than the Department required to process such claims in 1997.

(2) The Department does not currently process claims for veterans' benefits in a timely manner.

(b) SENSE OF SENATE.—It is the sense of the Senate to urge the Secretary of Veterans Affairs to—

(1) review the program, policies, and procedures of the Veterans Benefits Administration of the Department of Veterans Affairs in order to identify areas in which the Administration does not currently process claims for veterans' benefits in a manner consistent with the objectives set forth in the National Performance Review (including objectives regarding timeliness of Executive branch activities); and

(2) initiate any actions necessary to ensure that the Administration processes claims for such benefits in a manner consistent with such objectives.

(3) report to the Congress by June 1, 1999 on measures taken to improve processing time for veterans' claims.

Mr. BINGAMAN. Mr. President, this is merely a sense-of-the-Senate resolution regarding an element of pay and benefits to service members, and particularly those service men and women who have already served their country or are retired from the military service. In all of our discussions about the need to provide greater incentives for young Americans to serve and to remain in the military, we can't forget how important it is for the Nation to follow through on the promises that we have made to our veterans; to know that the benefits that are promised will be delivered is a very important tool in recruiting and retaining quality personnel in our military.

I have been disturbed, as I am sure some of my colleagues have been, by the recent reports in the press that have indicated that getting claims by our Nation's veterans actually resolved and paid by the Veterans' Administration has become an increasing problem. Many veterans are having to wait an unconscionably long period of time before their cases have been resolved. I hear about this in my home State. I was there all last week and heard about it at several points.

I recently read of a case that originated in 1967 that has still not been conclusively resolved. Veterans in my State of New Mexico have complained that the time taken to process individual claims has grown considerably worse over the past year. We have a billboard that has been put up in our State by a veterans group complaining about this issue. We have had picketing at congressional offices to raise awareness of this issue. According to the press, the average VA claim has been pending for 151 days nationwide, while in Albuquerque the average has increased to 161 days.

I tried to look into the situation and from what I can tell, the prospects for improvement are fairly slim. We have significant staff cutbacks—at least in my State, in Albuquerque—that have made the problem worse. But there have been other factors such as limited training and lack of automation in the VA that have contributed to the situation.

Mr. President, this problem is not peculiar to New Mexico. Yesterday, the Washington Post included an article that suggested the problem is being experienced in many States, if not in all. Mr. President, I ask unanimous consent to have that article printed in the RECORD.

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

VA ENTERS 'DIFFERENT WORLD' OF COMPUTERS—ANTI-PAPER EFFORT TO START LOCALLY

(By Bill McAllister)

Shortly after he arrived in Washington to take charge of the Department of Veterans Affairs' notoriously troubled benefit programs, Joseph Thompson gave Clinton administration officials a succinct assessment. ''We're in the 14th year of a seven-year modernization program.''

Repeatedly pilloried by Congress, the General Accounting Office and senior VA officials, efforts to improve Thompson's sprawling Veterans Benefits Administration are no joke. His agency, which has offices in every state, has defied numerous efforts to improve the speed with which it handles 2.5 million veterans claims a year.

Today, 15 months after he took office as undersecretary for veterans benefits, Thompson will announce a major initiative to end the VA's dependence on the huge paper files that remain the lifeblood—and the bane—of the VA's claims bureaucracy. With the cooperation of seven high-tech companies, the VA will initiate a pilot program to put all the claims files at its Washington regional office in an electronic database.

Thompson hopes that the program not only will speed the handling of Washington area claims, but that it also will give the VA ''a peek into a different world in which we are going to have to live,'' a world dominated by computers. It also could provide the department with the outline of a national computer claims network, which Thompson says the VA eventually must create.

The former head of the VA's New York benefits office, Thompson acknowledged in an interview yesterday that his ambitious plans face a lot of skepticism from Capitol Hill and from veterans. Congress, which must fund any national system, is demanding proof that his plans will work, Thompson said.

Fifty-seven percent of veterans interviewed by the VA have given Thompson's current benefits programs a thumbs down because claims processing is painfully slow and difficult to deal with. ''We know they are unhappy,'' Thompson said. ''If you were seeing those numbers in a private company, you'd be packing your bags.''

Thompson, a career VA employee whose work in New York was praised by Vice President Gore and his National Performance Review, won the help of a nonprofit business group called Highway 1 after he pleaded for the support of private industry.

Highway 1, composed of Kodak, Microsoft, IBM, MCI Worldwide, Computer Sciences Corp., Canon and Cicso Systems, was amazed to discover how much paper dominates the claims process.

''It was mind-blowing'' said Kimberly Jenkins, the coalition's founder and chairman. ''There were stacks and stacks of files, with rubber bands around them and frayed paper, some dating back to the Civil War.''

The effort at the Washington regional office is only part of Thompson's efforts to reduce the paper jam in VA benefits programs. He said the agency also will distribute new software designed to help veterans fill out claims applications.

Many of the forms that the VA processes are filled out with varying degrees of completeness on behalf of veterans by local and state government veterans officials and by workers affiliated with the large veterans service organizations, such as the American Legion and Disabled American Veterans. The new software should produce more complete and uniform applications, Thompson said.

Although Congress has repeatedly demanded that the VA reduce the amount of time it takes to process claims, Thompson argues that merely dispatching a claim quickly is not good enough. ''You can be fast or you can be slow, but it you don't make the right call, you've done a disservice to the veteran and to the taxpayer,'' he tells the agency's 11,200 benefits workers.

According to testimony Thompson gave to Congress last year, the VA steadily reduced the amount of time it took to process compensation claims from 213 days in 1994 to 133 days in 1997.

But in 1997 the time jumped back up, and it now takes about 160 days to process new claims. Thompson blames the increase in part on the increasingly complex types of claims that veterans, such as those from the Persian Gulf War, are filing.

The delay, however, is a major challenge for Thompson because the VA has promised Gore's National Performance Review that by fiscal 2000 it hopes to process new compensation claims ''in an average of 92 days.''

In the past, VA officials could deal with demands that the agency improve by redefining its work. Thompson recalled with a laugh that his first VA boss told him it used to take his office six months to process new claims. ''Now we have cut that to 180 days,'' the official said.

Mr. BINGAMAN. Let me read a portion of the article which I think tells a lot of the story.

In the past, VA officials could deal with demands that the agency improve by redefining its work. Thompson [this is Joseph Thompson, at the VA administration] recalled with a laugh that his first VA boss told him it used to take his office six months to process new claims. ''Now we have cut that to 180 days,'' the official said.

Although that is semihumorous, I do think that kind of an evasion of the problem has characterized the VA for too many years.

The article pointed out that the Department of Veterans Affairs made significant progress in reducing the time it took to process veterans' claims between the years 1994 and 1997, but since then, the processing time has increased from 133 days on average to the current rate of about 160 days. The administration has called for steps to reduce that, to get it down to an average response time of 92 days, but I am concerned that the erosion of veterans' benefits, the difficulty that our veterans have in seeing those benefits delivered, will weigh against recruitment and retention of the quality personnel that we need in our Armed Forces today.

This amendment states that it is the sense of the Senate the Department of Veterans Affairs should conduct a thorough review of the programs, procedures, and policies that govern this processing of veterans claims for benefits, and by June 1 of this year report to Congress on measures to be taken as a result of such a review.

I hope by that time we can identify the measures that we need to include in the authorization bill and in the appropriations bill to assist in this effort.

My hope is that the result of this review will be that we can reduce this processing time to bring it down to this 92-day average time. This is the administration's goal under the National Performance Review, which has come up with that estimate of the length of time that can be achieved. Obviously, even 92 days is too long. Better training and technology and staffing would allow us to shorten that even more. But, first, let's get to the 92 days.

Mr. President, I have discussed this amendment with colleagues on both sides of the aisle. As far as I know, it is agreeable to all concerned. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, this amendment is acceptable on this side. I see no need for further debate. We can move to the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 24) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we are continuing to make progress. It is the understanding of the Senator from Virginia that Senator MCCAIN is en route to the floor for the purpose of making a statement about the bill and to present an amendment for himself and Senator COVERDELL.

I also urge Senator FEINGOLD to consider coming to the floor following that. Hopefully, it will be mutually convenient.

Seeing no Senator seeking recognition at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, I rise today to speak in support of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights. Since Desert Storm I have been extremely concerned that our military has been losing the cutting edge and their ability to respond to crises or to maintain our superiority throughout the world. We have all watched as our Armed Forces became increasingly unable to retain their most qualified warfighters, fell short of their recruiting goals, and suffered severe morale problems across mission areas of each service. We heard repeatedly from the Department of Defense that they ''could do more with less'', until last September when the service chiefs came to us and confessed a very bleak picture indeed.

Even as our military has been downsized to a more streamlined force, the Administration has deployed our servicemembers more and more into harm's way. With 6,700 troops still in Bosnia, two years after the original deadline for their withdrawal, we are preparing the ground for the deployment of 4,000 additional soldiers and Marines into Kosovo. And make no mistake, Kosovo is a considerably more complicated situation than existed in Bosnia. The United States does not support the Kosovar Albanian goal of independence, and so recognizes the right of Serbia to maintain control of its territory. At the same time, the brutality and utter ruthlessness with which President Milosevic has and continues to prosecute his campaign against the Albanian population of Kosovo demands the international community take steps to compel a termination of his actions. Slobodan Milosevic represents the personification of a kind of tyranny we had hoped we had seen the last of with the death of Stalin, yet which continues to appear in places like Uganda, Cambodia, and, in the 1990s, Yugoslavia. He must be curtailed through forceful persuasion, not only because objective morality dictates we do so, but because the Kosovar Albanians deserve to know that the more recalcitrant party to the talks and the overwhelmingly greater threat to human rights will be held accountable for his actions.

Toward that end, the President has made a commitment to dispatch U.S. forces to Kosovo. It is with great reluctance that I will not oppose that deployment, as the risks to U.S. national interests should the fighting in Kosovo spread beyond its confines could be substantial, involving our Greek and Turkish allies and other countries threatened with internal dissension. But my support is qualified upon a series of measures that have yet to emerge as part of the Clinton Administration's overall approach to foreign policy and the role of force in support of that policy. Prior to the deployment, there must be a clearly established set of criteria for determining the nature and duration of the operation. There should be an exit strategy for how to withdraw those forces upon the completion of a mission understood by our military commanders in the field as well as by the American public here at home, or to extract them should fighting on the scale of that witnessed over the past year resume.

Under no circumstances should U.S. forces be sent into Kosovo without clearly articulated rules of engagement. Peacekeeping missions are fraught with uncertainties regarding the identity of combatants within civilian populations. Our military personnel must know that they have authority to respond to threats with the requisite degree of force, and without having to go through the kind of bureaucratic and political nightmare that characterized the war in neighboring Bosnia-Herzegovina. There must be no dual-key arrangement. If this is a NATO operation, then NATO alone should dictate when force is used to compel the parties to comply with their obligations. Neither the so-called Contact Group nor the United Nations should be permitted to insert itself into operational aspects of the mission. If these conditions are met, up front, then I will support the deployment, albeit reluctantly.

And, finally, the Administration should take one other step it has been historically reluctant to take: it should indicate how it intends to pay for the operation. It should not, as it

has done in the past, provide vague references to future supplemental appropriations bills and then draw the funds from existing, dedicated accounts. It should, even before the deployment begins, work with Congress to provide the requisite funds without depleting operations and maintenance and missile defense accounts.

Skepticism, in this regard, is warranted. A historically high rate of deployments combined with a major reduction in overall force structure has caused readiness problems in the military that threaten our ability to respond to future contingencies in which vital interests are at stake. The Administration ignored this problem for six years, and its fiscal year 2000 budget submission is excessively replete with budget gimmickry that makes me question its commitment to correct near and long-term readiness problems.

Before I leave the issue of Kosovo, let me just state that the events that just took place in France are certainly not the United States' finest hour in diplomacy. The President of the United States said that if two—not one but two—deadlines were reached that the United States would act militarily. They allowed those to pass. Somehow now a period of 3 weeks is supposed to take place while Kosovar Albanians consult with one another to decide whether or not they will abide by certain provisions of a proposed, as yet unseen peace agreement.

Mr. President, the United States squandered a lot of credibility during this period of time, and there were a broad variety of reasons why that happened, including allowing the conduct of these negotiations to be supervised by others rather than the United States. But fundamentally there was a misunderstanding of the problem—a misunderstanding of the motivation of the participants, and very frankly there has been a commensurate erosion of U.S. credibility during this entire series of negotiations. I do not know how it is going to come out, but I think the prospects of further bloodletting have been increased as a result of these negotiations rather than the stated goal of them being decreased.

It is the growth of those problems that brings us to where we are today; that bring us to consideration of the legislation before the Senate.

Mr. President, this bipartisan bill contains a package of benefits for the Armed Forces that would go a very long way to fixing the readiness problems facing all the services. It combines overall pay increases with retirement incentives, exciting new savings plans, and educational benefits. It addresses the issue of service members on food stamps. It is focused and balanced, and directly answers the most pressing needs as stated by the service chiefs and service secretaries.

Military pay, by almost all accounts, has fallen considerably behind civilian pay. Arguments can be made as to the precise pay differential, and at which pay grades and mission ares it is greatest, but there is no credible argument as to whether we need to address the pay gap. This is accomplished by the bill's proposed pay raise of 4.8 percent next year and raises based on the employment cost index plus half a percent thereafter.

The tables that define military base pays for all ranks are archaic and badly in need of reform. Middle leadership positions for both enlisted and officers have to be rewarding. Few service members actually see themselves becoming the Master Sergeant of the Army or the Chief of Naval Operations. Many, however, do aspire to the rank of Army Lieutenant Colonel or Navy Senior Chief. Our legislation proposes a sweeping reform of the pay tables, rewarding service and promotion without over-compensating very senior officers.

The reduced retirement plan implemented in 1986, known as Redux, is a major morale issue with service members. Although no one has retired under this plan, it is a constant reminder that military service is under-appreciated. Even if a service member is not affected by this plan, it is a morale issue because many of his peers and subordinates are. Repealing REDUX across the board is expensive, which is why our legislation gives the service member the choice of switching to the pre-REDUX plan or remaining with REDUX and taking a $30,000 bonus, which can in turn be rolled tax-free into the thrift savings plan. Many service members would choose this alternative in response to the needs of their family in the near term.

Our bill also offers service members an opportunity to save for their future. The new thrift savings plan established in this bill allows members to put aside up to 5 percent of their pay and all special bonuses, tax free, in a plan that does require them to serve a full career of 20 years to earn that ''nest egg''. Each service is given the discretion of matching these funds up to the full 5 percent.

The legislation also increases the monthly educational benefit of the GI Bill, allows lump sum payments upfront for school tuition, and cancels the servicemember's obligation to contribute the $1200 required to receive full benefits. Most importantly, it allows the transfer of these benefits to immediate family members, a proposal that will be welcomed with open arms by servicemembers struggling to put children through college.

Lastly, S. 4 includes a provision for a special subsistence allowance that will take almost 10,000 service members off food stamps. This benefit will help the most junior and most needy of our hard-working enlisted troops. It will remove the stigma of food stamps from the military family and it will do so fairly, without aggravating pay discrepancies, and in an honorable manner.

Mr. President, much has been said about this bill that is flat wrong. S. 4, as reported by the Senate Armed Services Committee, is not significantly more expensive than the Administration's proposal, and, in fact, may well be cheaper depending on the number of service members who choose to remain on the reduced retirement plan and take the $30,000 bonus. Seemingly subtle differences between S. 4 and the Administration's proposal are not lost on our bright young fighting men and women. S. 4 offers half a percent higher pay raise next year, no cost-of-living allowance caps, the opportunity for individual thrift svings plans, exciting educational benefits, and a special subsistence allowance that will help those most needy junior military families who today must use food stamps to make ends meet.

I must admit that I have great concern about the potential for ''Christmas tree'' amendments on this bill that inflate its costs well beyond what has been requested by the Joint Chiefs of Staff and what is clearly necessary to restore morals and personnel readiness. However, I am hopeful that any excessive or irrelevant provisions added during floor debate will be fairly addressed in confrerence with the House.

Mr. President, our bill will have profound and immediate positive effects on morale and retention. In fact, I have heard from several service members over the last month who are deferring their decision to leave their service based on what we do here in Congress. They will not wait forever.

Mr. President our military personnel need and deserve our immediate attention on this critical issue. These are the men and women who defend our nation day and night, 365 days a year, at home and overseas. They need our support and our appreciation. I urge my colleagues to support this bill and to work for a streamlined process that will expeditiously take the benefits of S. 4 to our fighting men and women.

I especially thank the distinguished chairman of the committee, Senator WARNER, who decided last year that this had to be our highest priority. He is keenly aware of the problems of morale and retention that affect our men and women in the military, which was so graphically demonstrated last year when the Joint Chiefs came over.

Have no doubt, have no doubt, that the men and women in the military are watching what we do. I have already heard, as others have heard, this may be delayed; that the administration wants to delay it; some of my colleagues on the other side of the aisle want it delayed; some of my colleagues on this side of the aisle are saying it is too expensive; we should not move forward with it.

Mr. President, what is more outrageous than having 11,000 enlisted families whom we are asking to defend this Nation existing on food stamps? That is an outrage and an insult to all of us as Americans. Don't we care enough about these young men and

women that we are willing to do what we can to get them off food stamps, and do it quickly? Aren't we aware that the Chairman of the Joint Chiefs of Staff came over and testified before the Armed Services Committee and said the reason we are not keeping these good men and women, the No. 1 reason, is because of the retirement system?

I read editorials in the Washington Post—I think the chairman said there are two—that this is a bad idea; it affects the retirement system.

What in the world does the Washington Post know? I challenge the editorial writer of the Washington Post to go out to any of these ships, any of these Army units, any Marine or Air Force base, and ask them why they are not staying in; ask them why their morale is at a low that we have not seen since the 1970s; ask them why their subordinates and their peers are not remaining in the military.

They will tell the editorial writers and the skeptics who oppose this legislation, just as the Chairman of the Joint Chiefs of Staff did last September, that is the No. 1 issue. You can run all the computer studies, you can run all these numbers you want, you can say this doesn't really matter, but, Mr. President, it does matter to them. It does matter to them. Ask any of them. And that is what we are trying to face here.

Yes, I want to join my friend, the chairman, in my concern about so much being added to this bill. A lot of these are very good things that are being added with these amendments, and I am sure they will play well with certain constituencies. But I want to tell my colleagues, I have every confidence that when we go to conference we are going to strip a lot out of this, because we cannot have this thing overloaded to the point where it falls of its own weight.

The priorities we have are restoring the morale and retaining the men and women in the military. I would argue that almost any amendment on this bill which does not directly apply to that objective perhaps should be taken up another day, in the normal course of the authorization bill which we will probably bring to the floor sometime this coming summer. In the meantime, we cannot wait. We cannot wait.

I received a letter yesterday from a naval officer who said: If this legislation is passed, then I and many of my colleagues will not make the decision that many of us had already made, and that is to leave the military.

This is an important issue. We are about to send our young men and women into harm's way again in Kosovo, whether the majority of my colleagues happen to agree with that decision or not. Are we supposed to send them immediately into harm's way and tell them, well, we will have to wait on this issue of giving you a decent pay and allowance and a decent retirement system, at least in your view that is badly needed, or are we going to address those problems immediately?

I won't go into it further, but there are times when I am reminded of the old Kipling poem about, ''It's Tommy this, an' Tommy that,'' but when the drums begin to roll, it is, ''Mr. Thompson, if you please.''

I urge my colleagues to allow us to move forward as rapidly as possible with this legislation. Let's narrow down the amendments. Let's move forward with this, with the assurance to all of our colleagues that many of their worthy amendments should be addressed in a proper process.

I thank the chairman, Senator WARNER, again, along with Senator LEVIN, but especially Senator WARNER whose experience and knowledge of men and women in the service is unequaled by any in this body, including his dedicated service to our Nation in the military, albeit it was in the Spanish-American War.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I thank my very, very dear friend and colleague. Our association goes back many, many years when at one time, I suppose, you could consider me his boss, but those days when I was his boss ended with his distinguished family of predecessors who have served in our naval service with such distinction for so many generations.

Before the Senator departs, I want to say that earlier, in the context of the Harkin amendment, I made it very clear to the Senate that that important provision on food stamps in our bill originated with the Senator, and it represents a lot of study and commitment that the Senator has made for a number of years on this issue; it just didn't come to mind yesterday. The Senator has spoken on it many times to our committee, to the Senate as a whole, and, indeed, to the Nation as a whole. The Senator has addressed the problems associated with food stamps.

Also, the Senator mentioned the concern he has about NATO. I share a number of those concerns and particularly the relationship to the United Nations. I had a meeting early this morning with the Secretary General of the United Nations, Kofi Annan, and later today I will put into the RECORD some remarks.

Of course, I stressed with him our deep concern about Iraq and the need for greater unity of commitment and understanding in the United Nations on that question. But I also touched on the issue that they are entirely separate organizations, the United Nations and NATO, and there are times when we work together.

And the Senator is quite correct in sending out a clarion call that as we approach the 50th anniversary and decisions relating to the future of NATO, and particularly what we call ''out-of-area missions,'' that again the separability of those two organizations be kept in mind. I hope at some point to more formally address that issue. I have been doing some research on it which I would be happy to share with my good friend and colleague.

On Kosovo, our committee will be holding a hearing tomorrow, and I hope the Senator can schedule time to attend that hearing and, perhaps in his opening remarks in the course of the hearing, address some of the very concerns that the Senator stated here today.

I thank my good friend for bringing to bear on the deliberations of the committee and the Senate as a whole his years of experience in the military. It is very important. Without it, we would be at a great loss. I thank my colleague.

If I might ask one question, there was some thought that the Senator was going to offer an amendment on behalf of Mr. COVERDELL. Could the Senator clarify that?

Mr. MCCAIN. It was my understanding that Senator COVERDELL would like to do that.

Mr. WARNER. He is going to do that.

Mr. MCCAIN. I thank the Senator.

Mr. WARNER. I thank the Senator.

Mr. MCCAIN. If the Senator will yield, I do want to help him in getting these amendments narrowed down. It is time, I tell all my colleagues, to move forward.

Mr. WARNER. We are ready to move this bill, I say to the Senator, but in fairness we have to get some further cost information. The Senator from Arizona brought up his concern about costs. The Senator is a watchdog on that, and we are beginning to get that from the Department of Defense, particularly with the amendment of the Senator from Iowa regarding the extension of food stamps to overseas men and women of the Armed Forces. I don't know whether the Senator has a view he would like to add on that.

Mr. MCCAIN. I have not had a chance to examine it, but I would like to do it.

Mr. WARNER. We are keeping the Senator's assistant informed of the information as it comes over.

Mr. MCCAIN. I thank the chairman.

Mr. WARNER. I thank the Senator very much.

Mr. President, we are proceeding with this bill apace. We understand the Senator from Wisconsin is going to come to the floor shortly for an amendment. We are anxious to move any others. There are only very few left. I intend to advise the majority leader and the Democratic leader that it is this Senator's objective that this bill can be passed this afternoon, final passage.

Mr. President, I see no other Senator seeking recognition at this time, so, therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I want to address the bill that is presently before the Senate. I begin by congratulating the chairman of the committee, Senator WARNER, and the ranking member, Senator BINGAMAN, for bringing this bill forward in the sense that it has addressed the issue of pay raise for our service people. This is important. I think we all recognize that our ability to attract in a volunteer service first-class folks who are going to be willing to put their lives on the line for us requires, in turn, that we pay them a fair compensation which reflects the gravity of the job that they are doing and the importance of the job that they are doing.

So the pay raise part of this bill, I think, is a very appropriate element of the bill. In addition, I am very supportive of the attempts to address the health care issues, not only of the service men and women, but of their families, which is critical to the quality of life. Of course, housing needs of service individuals is also extremely important.

Those elements of the bill, especially the pay and the health care parts, are, in my opinion, steps forward, and I congratulate the chairman for bringing the bill forward and bringing it so promptly to our attention.

But I do have serious reservations about some other elements of this piece of legislation. There are two areas where I think this legislation either creates a new entitlement, which is inappropriate and extraordinarily expensive, or actually is counterproductive to its overall purpose.

The first place that I have concern is in the area of the new entitlement for children of service individuals to receive, basically, the GI bill benefits. This is a significant expansion of the GI benefit. It has always been a superb benefit and a well-used benefit, but it has only been directed at the military personnel. Now it can be used by the spouses and by the children of military personnel.

The potential costs in the outyears of this are extraordinary because it is an entitlement. They really are not recorded in this bill because this bill only has a 5-year window, and when we get out past that 5 years, this number is going to be extremely high, and I think we will have, in my opinion, expanded this benefit in a way that will put great strain on the Defense Department budgets, which I do not think is the proper way to approach this.

Education is important, but the GI bill has always been focused on the soldier, the sailor, the airman. It is not for the children, unless the soldier, the sailor or airman has died in service.

We do have a large panoply of other types of educational initiatives in our Government that are available for military children, as well as for all other children, for that matter. It would be better to work an additional benefit for military children through those types of already-existing educational programs which are not entitlement oriented but are discretionary oriented. In my opinion, for that reason, this bill has a very serious flaw.

The second problem this bill has, which I really do not understand why the decision was made to go in this direction, is that it reverses the decision we made back in 1986 to drop the 50 percent back to 40 percent, the percentage of pay which a person will get on retirement after 20 years. The reason we did that, and the reason it passed so overwhelmingly back in 1986, was because we were trying to retain people in the military service. That is the reason that decision was made. We saw the purpose of that pension structure, 50 percent of pay upon 20 years of completion of service, as being, essentially, an encouragement to cause people to leave the military, and they were.

So this bill reinstitutes an initiative which makes no sense if our purpose is to attract people and keep them in the military. I understand this bill also has a $30,000 bonus if you stay in the military and take the 40 percent. But the fact is, going back to 50 percent is going to cause a lot of good officers and a lot of our more senior enlisted individuals to leave the service, because their age is usually in the early forties when they hit that 20 years, sometimes younger, but usually in the early forties, and that is the perfect time to go off and find a new career.

If you have an incentive that you are going to get 50 percent of your pay if you go out and find a career, you have a huge incentive to leave the career you are in and go out and find a new career. So it makes much more sense to stay at the 40 percent. I think it would have made a great deal more sense in this bill if we said, rather than bumping it back up to 50 percent, something to the effect that we are going to stay at 40 percent and we are going to give the military, the Defense Department, the flexibility to take the money we would have used to go to 50 percent and use that money to create new programs which will encourage people to stay in the service rather than to leave the service.

For example, the bonus is in this bill, but certainly there are other things that could be done that would encourage people to stay in the service after 20 years if there were a big pool of resources available to the Defense Department to set up educational programs or additional benefit structure programs or even a pay increase incentive program for people who reach that 20 years and are thinking of retiring.

Instead of doing that, we are doing the exact opposite. We are saying we are going to bump your percentage up to 50 percent and encourage you to leave the military. It makes no sense; plus, it is extremely expensive. It is $2 billion and, once again, when we get outside the 5-year window, the cost is very high.

This is an extraordinarily expensive bill. We should not underestimate that it costs $45 million in discretionary money and $14.1 billion in new entitlement spending over the 5-year period. If you were to graph it, it would go up probably horizontally on the entitlements side because of the new entitlements in the education accounts.

I think and I am hopeful that when the extraordinarily high quality leadership, which this committee has, takes a look at this bill again as it heads into conference, they will take a look at these two items, because these two items, in my opinion, create serious flaws in a bill that otherwise is very positive and is very appropriate.

It seems to me that the first one is an expansion of the entitlement, which is inappropriate, and the 50 percent, which is counterproductive to the purposes of the bill. It would be logical if we go back and visit both of those items.

I do have an amendment that I would be willing to offer on the second one, the 50 percent. I am hopeful that this committee, which is so well led—and I do not want to slow up the bill because I think it is a bill, I understand, that the committee wants to move—I am hopeful the committee will take a hard look at this, and if they don't, obviously, I might have to resort to the amendment. But, hopefully, there will be an attempt to take a look at this, at least in the conference stage so we can address what I think are the two flaws in this bill.

I thank the President for his time, and yield back the remainder of my time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my colleague for his remarks. He is a keen observer of the budget process around here. And I recognize that we are going to have to take a look at some of these options. But it is going to send a strong message. And I think it is important.

Mr. GREGG. Thank you, Mr. Chairman.

Mr. WARNER. I thank the Senator.

I wish to advise the Chair and all Senators that we are about to get some other amendments accepted here very quickly. And if we can accept about four amendments, I would hope maybe we can arrange for a break here at the noon hour, and then resume early in the afternoon. But that is a decision that is up to the leadership at this time.

Mr. President, on the amendments, Senator JEFFORDS is on his way to the floor to address two of the three he has. The first one is in relation to what we call a lump-sum payment. And I am of the opinion that the committee is going to accept that. And the second is an extended window of eligibility; that is whereby a person in the service has a period of time, after they depart the service—somewhat extended now—within which to make certain decisions

regarding their eligibility under the various GI bill provisions. So I hope that we can accept those two.

Senator FEINGOLD has an amendment. And I think momentarily my colleague, the joint manager of the bill, will address that. That leaves the amendment from the Senator from Iowa, the Harkin amendment. And I think we are very close to closure on that. It is being redrafted in a manner in which I think it can be accepted.

Senator?

Ms. LANDRIEU. Thank you.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President and Mr. Chairman.

AMENDMENT NO. 25

(Purpose: To amend title 37, United States Code, to ensure equitable treatment of members of the National Guard and the other reserve components of the United States with regard to eligibility to receive special duty assignment pay)

Ms. LANDRIEU. If I could, on behalf of Senator FEINGOLD, who is unable to be here because he is in a committee hearing, to offer this amendment on his behalf. I send it to the desk. This amendment would correct special duty assignment pay inequities between the Reserve components and their active duty counterparts.

I understand this is acceptable to you, and the amendment will be accepted.

Mr. WARNER. Mr. President, that is correct.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for Mr. FEINGOLD, proposes an amendment numbered 25.

The PRESIDING OFFICER. If there is no objection, the reading of the amendment is dispensed with.

The amendment is as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. ENTITLEMENT OF RESERVES NOT ON ACTIVE DUTY TO RECEIVE SPECIAL DUTY ASSIGNMENT PAY.

(a) AUTHORITY.—Section 307(a) of title 37, United States Code, is amended by inserting after ''is entitled to basic pay'' in the first sentence the following: '', or is entitled to compensation under section 206 of this title in the case of a member of a reserve component not on active duty,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

Mr. FEINGOLD. Mr. President, I rise today to offer an amendment that will restore a measure of pay equity for our nation's Guardsmen and Reservists. The men and women who serve in the Guard and Reserves are cornerstones of our national defense and domestic infrastructure and deserve more than a pat on the back.

Mr. President, as I'm certain my colleagues are well aware, the Guard and Reserve are integral parts of overseas missions, including recent and ongoing missions to Iraq and Bosnia. According to statements by DoD officials, guardsmen and reservists will continue to play an increasingly important role in national defense strategy. The National Guard and Reserves deserve the full support they need to carry out their duties.

National Guard and Reserve members are increasingly relied upon to shoulder more of the burden of military operations. We need to compensate our citizen-soldiers for this increasing reliance on the Reserve forces. Mr. President, this boils down to an issue of fairness.

Mr. President, my amendment would correct special duty assignment pay inequities between the Reserve components of our armed forces and their active duty counterparts. These inequities should be corrected to take into account the National Guard and Reserves' increased role in our national security, especially on the front lines. Given the increased use of the Reserve components and DoD's increased reliance on them, Reservists deserve fair pay. My amendment provides that a Reservist who is entitled to basic pay and is performing special duty be paid special duty assignment pay.

Mr. President, right now, Reservists are getting shortchanged despite the vital role they play in our national defense. The special duty assignment pay program ensures readiness by compensating specific soldiers who are assigned to duty positions that demand special training and extraordinary effort to maintain a level of satisfactory performance. The program, as it stands now, effectively reduces the ability of the National Guard and Reserve to retain highly dedicated and specialized soldiers.

The special duty assignment pay program provides an additional monthly financial incentive paid to enlisted soldiers and airmen who are required to perform extremely demanding duties that require an unusual degree of responsibility. These special duty assignments include certain command sergeants major, guidance counselors, retention non-commissioned officers (NCO's), drill sergeants, and members of the Special Forces. These soldiers, however, do not receive special duty assignment pay while in an IDT status (drill weekends).

Between fiscal years 1998 and 1999, spending for the program was cut by $1.6 million, which has placed a fiscal restraint on the number of personnel the Army National Guard is able to provide for under this program. These soldiers deserve better.

Mr. President, these differences in pay and benefits are particularly disturbing since National Guard and Reserve members give up their civilian salaries during the time they are called up or volunteer for active duty.

As I'm sure all my colleagues have heard, the President will propose an enormous boost in defense spending over the next six years; an increase of $12 billion for fiscal year 2000 and about $110 billion over the next six years. I have tremendous reservations about spending hikes of this magnitude, but have no such reservations about supporting this nation's citizen-soldiers in this small but important way. The National Guard and Reserve deserve pay and benefit equity and that means paying them what they're worth.

Mr. President, according to the National Guard, shortfalls in the operations and maintenance account compromise the Guard's readiness levels, capabilities, force structure, and end strength. Failing to fully support these vital areas will have both direct and indirect effects. The shortfall puts the Guard's personnel, schools, training, full-time support, and retention and recruitment at risk. Perhaps more importantly, however, it erodes the morale of our citizen-soldiers.

Over these past years, the Administration has increasingly called on the Guard and Reserves to handle wider-ranging tasks, while simultaneously offering defense budgets with shortfalls of hundreds of millions of dollars. These shortfalls have increasingly greater effect given the guard and reserves' increased operations burdens. This is a result of new missions, increased deployments, and training requirements.

Earlier this year, Charles Cragin, the assistant secretary of defense for reserve affairs, presented DoD's position with regard to the department's working relationship with the National Guard and Reserve. He stated that all branches of the military reserves will be called upon more frequently as the nation pares back the number of soldiers on active duty. This has clearly been DoD's policy for the past few years, but Mr. Cragin went a little further by stating that the reserve units can no longer be considered ''weekend warriors'' but primary components of national defense.

Mr. President, in the past, DoD viewed the armed forces as a two-pronged system, with active-duty troops being the primary prong, reinforced by the Reserve component. That strategy has changed with the downsizing of active forces. Defense officials now see reserves as part of the ''total force'' of the military.

The National Guard and Reserves will be called more frequently to active duty for domestic support roles and abroad in various peace-keeping efforts. They will also be vital players on special teams trained to deal with weapons of mass destruction deployed within our own borders. According to many military experts, this represents a more salient threat to the United States than the threat of a ballistic missile attack that many of my colleagues have spent so much time addressing.

Mr. President, I have had the opportunity to see some of these soldiers off as they embarked on these missions and have welcomed them home upon their return, and I have been struck by

the courage and professionalism they display. Guardsmen and Reservists have been vital on overseas missions, and here at home. In Wisconsin, the State Guard provides vital support during state emergencies, including floods, ice storms, and train derailments.

Mr. President, we have a duty to honor the service of our National Guardsmen and Reservists. One way to do that is to equitably compensate them for their service. I hope my colleagues agree that our citizen-soldiers serve an invaluable role in our national defense, and their paychecks should reflect their contribution.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. I urge adoption of the amendment.

The amendment (No. 25) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Ms. LANDRIEU. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, in the course of deliberations on the floor, there have been a number of amendments to extend benefits to Guard and Reserve forces. And momentarily we will be considering additional amendments. We are operating under a total force concept. I remember very well when I was in the Department of Defense working for then-Secretary Melvin Laird. He really started the concept of what we call ''total force.''

Yes, we have Reserve and Guard forces active, but it is a total force in a time of need. There have been extraordinary contributions by Reserve and Guard officers, men and women, in the past decade, particularly in connection with the Bosnia deployments.

For example, the air guard have flown, I think, approximately half of the missions involved, and I would like for the RECORD to get the exact figure on that during that period. They are still flying. Each one of us here in the Senate received notice of a detachment from our State that is now being deployed into that theater of operations to help an active duty group in the performance of their duties and perhaps even to relieve an active duty group so they could go back either to the continental United States or to their stations in Europe. So it is really one total force now.

I know that Senators are concerned about the dollars involved in these various pay proposals. For example, this extended window of eligibility—that is only going to cost $5 to $10 million. That is a relatively small sum to accommodate these young people as they return from a period of active duty and then have to sit down and sort out their lives and figure out when they want to take on their education. What are their family responsibilities? Perhaps they want to try a job before they go back to get additional schooling. All of these things is a component, is going to help, in my judgment, to not only induce young people to come in, in the front end, but to keep those in uniform now remaining on active duty so the taxpayer in America can save the enormity of the cost associated with training a new service person.

In the pilot training it goes into the multimillions of dollars to train these individuals to operate the high-performance aircraft, both fixed and rotary wing, that we have today. So bear with us. Those of us who are on the committee, I think, have a great appreciation not only for the budgetary considerations, but for the need to make these improvements at this time. It is absolutely essential that we do so, Mr. President.

I really appreciate the support I have gotten, particularly from the leadership on both sides here, and Members of the Senate who have come up to me. While they have concerns about the budgetary considerations, they know, bottom line, that we have to fix this personnel situation. There is no sense in spending millions and millions—indeed billions—of dollars to buy the new aircraft and ships if we do not have the personnel to operate them.

The ships of the U.S. Navy now on deployment in the gulf region are undermanned because of the inability to retain the skilled personnel. We simply cannot ask those aboard the ship to accept the additional risk and overtime hours aboard that ship without trying to do everything we can back here in the Congress of the United States to straighten out this problem.

Mr. President, I think it is just moments before Senator JEFFORDS appears on the floor. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 12 AND AMENDMENT NO. 13

Mr. JEFFORDS. Mr. President, I have long been a strong advocate for a well-educated American work-force. Vermont's quality of life is related closely to the educational opportunities available to her citizens. Education is a cornerstone of our healthy economy. These same notions apply with similar effect to our men and women in the military. Modern, technologically advanced systems and complex missions depend on the skills and wisdom of well-educated personnel. S. 4 modestly enhances the educational opportunities for our men and women on active duty. It should do the same for the members of our Guard and Reserve.

This bill is appropriately named ''Soldiers', Sailors', Airmen's and Marines' Bill of Rights.'' It is appropriate because use of the term ''Bill of Rights'' invariably suggests the concepts of fairness and equity.

Perhaps Secretary of Defense William Cohen had this in the back of his mind in September of 1997 when he instructed the Department of Defense to eliminate ''all residual barriers, structural and cultural'' to effective integration of the Guard, Reserve and Active Components into a ''seamless Total Force.'' Precisely one year later his Deputy, John Hamre, looked back to that day and observed:

> We have made great progress integrating our active and Reserve forces into one team, trained and ready for the 21st century. Our military leaders are getting the message. Structural and cultural barriers that reduce readiness and impede interoperability between active and Reserve personnel are gradually being eliminated. We must now assess the progress we have made, acknowledge those barriers to integration that still exist, and, most importantly, set our plans into motion.

If these wise words are to have full effect we must work to rectify an oversight in S. 4, which, as written, enhances educational benefits for a portion of our seamless Total Force but neglects the remainder. Consequently, to promote parity among all components of our military Senator LANDRIEU and I are offering the following two amendments:

The First: Allow members of the Guard and Reserve the ability to accelerate payments of educational assistance in the same manner currently provided in S. 4 to the Active Duty military.

The Second: Allow members of the Guard and Reserve who have served at least ten years in the Selected Reserve, an eligibility period of five years after separation from the military to use their entitlement to educational benefits. (Active duty military members have a ten year period.)

Just a few weeks ago, four Reserve Component members lost their lives when their KC–135 went down in Germany while flying active duty missions for the Air Force. Death did not discriminate between Active and Reserve Components. Nor should S. 4.

The opportunity to face this ultimate risk will only increase as we place greater demands on our Guard and Reserve units to participate in our global missions. Since Operation Desert Storm the pace of operations has swelled by more than 300% for the Guard alone and is widely expected to climb higher.

We all know the value of the Guard and Reserve for missions close to home. In Vermont they saved our citizens from the drastic effects of record setting ice storms last winter. Recently, other units helped with hurricanes in Florida, North Carolina and South Carolina. They assist our citizens during droughts and blizzards. They enrich our communities with Youth Challenge programs and they conduct an ongoing war on drugs. Just last year we added protection of the U.S. from weapons of mass destruction to that list, and the list keeps growing.

It is now time to bring their educational benefits in balance.

As many of you know, I believe in the value of life-long learning to our society. Access to continuing education has become an essential component to one's advancement through all stages of modern careers. S. 4 modestly improves this access for our brave men and women on active duty. It should do the same for our Guard and Reserves.

I urge my colleagues to help bring parity, equity and fairness to the educational opportunities available to all components of our military. The Guard and Reserve have been called upon increasingly to contribute to the Total Force. They face similar challenges to recruiting and retention. They should have similar access to educational opportunities.

Mr. President, I send two amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] for himself, Mr. BINGAMAN, Mr. CLELAND, and Ms. LANDRIEU, proposes amendments numbered 12 and 13 en bloc.

Mr. JEFFORDS. Mr. President, I ask unanimous consent the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 12

(Purpose: To authorize payment on an accelerated basis of educational assistance for members of the Selected Reserve under chapter 1606 of title 10, United States Code)

On page 46, strike lines 6 through 8 and insert the following:

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. ACCELERATED PAYMENTS OF CERTAIN EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j)(1) Whenever a person entitled to an educational assistance allowance under this chapter so requests and the Secretary concerned, in consultation with the Chief of the reserve component concerned, determines it appropriate, the Secretary may make payments of the educational assistance allowance to the person on an accelerated basis.

''(2) An educational assistance allowance shall be paid to a person on an accelerated basis under this subsection as follows:

''(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this chapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the Secretary concerned receives the person's request for payment on an accelerated basis; and

''(ii) in any amount requested by the person up to the aggregate amount of monthly allowance otherwise payable under this chapter for the period of the course.

''(3) If an adjustment in the monthly rate of educational assistance allowances will be made under subsection (b)(2) during a period for which a payment of the allowance is made to a person on an accelerated basis, the Secretary concerned shall—

''(A) pay on an accelerated basis the amount of the allowance otherwise payable for the period without regard to the adjustment under that subsection; and

''(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

''(4) A person's entitlement to an educational assistance allowance under this chapter shall be charged at a rate equal to one month for each month of the period covered by an accelerated payment of the allowance to the person under this subsection.

''(5) The regulations prescribed by the Secretary of Defense and the Secretary of Transportation under subsection (a) shall provide for the payment of an educational assistance allowance on an accelerated basis under this subsection. The regulations shall specify the circumstances under which accelerated payments may be made and the manner of the delivery, receipt, and use of the allowance so paid

''(6) In this subsection, the term 'Chief of the reserve component concerned' means the following:

''(A) The Chief of the Army Reserve, with respect to members of the Army Reserve.

''(B) the Chief of Naval Reserve, with respect to members of the Naval Reserve.

''(C) The Chief of the Air Force Reserve, with respect to members of the Air Force Reserve.

''(D) The Commander, Marine Reserve Forces, with respect to members of the Marine Corps Reserve.

''(E) The Chief of the National Guard Bureau, with respect to members of the Army National Guard and the Air National Guard.

''(F) The Commandant of the Coast Guard, with respect to members of the Coast Guard Reserve.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

AMENDMENT NO. 13

(Purpose: To modify the time in which certain members of the Selected Reserve may use their entitlement to educational assistance under chapter 1606 of title 10, United States Code)

On page 46, strike lines 6 through 8 and insert the following:

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF THE SELECTED RESERVE OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE.

Section 16133(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) In the case of a person who continues to serve as member of the Selected Reserve as of the end of the 10-year period applicable to the person under subsection (a), as extended, if at all, under paragraph (4), the period during which the person may use the person's entitlement shall expire at the end of the 5-year period beginning on the date the person is separated from the Selected Reserve.

''(B) The provisions of paragraph (4) shall apply with respect to any period of active duty of a person referred to in subparagraph (A) during the 5-year period referred to in that subparagraph.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

Ms. LANDRIEU. Mr. President, I spoke with Senator JEFFORDS earlier about being added as a cosponsor to both amendments 12 and 13.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

The question is on agreeing to the amendments en bloc.

The amendments (Nos. 12 and 13) were agreed to.

Mr. WARNER. I move to reconsider the vote.

Ms. LANDRIEU. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Now, I have indicated that this Senator would not accept the question of the transfer of amendment, the third amendment. Do I understand the Senator will not present that amendment?

Mr. JEFFORDS. That is correct, I will not offer that amendment.

Mr. WARNER. That completes all of the amendments of the Senator from Vermont?

Mr. JEFFORDS. That does, and I appreciate your cooperation as well as the cooperation your staff has shown in allowing us to proceed.

Ms. LANDRIEU. I will make a brief comment. First, I thank the Senator from Vermont for bringing these two important amendments for our Guard and Reserve, and I thank the chairman for accepting them.

I will make, just for the RECORD, a comment about the amendment that we are unable to accept because of its fairly high cost—stipulated to be about $900 million.

My staff has informed me and the staff for the committee on our side that this seems to be a very, very important issue to the rank and file. One of the more popular aspects of our bill is the fact that we are now going to allow, at some additional cost, but I, frankly, believe, and I think most Members on both sides believe, it is well worth it to allow this Montgomery GI bill to be transferred to spouses and children—perhaps the most important incentive for people to remain in the military and to be active participants for a longer period of time. I hope we will consider perhaps next year, if not this year, extending the same benefits to the Guard and Reserve.

The retention issues are somewhat different, but let me say that the Guard and Reserve are very, very important components to our military forces as we redesign and reorganize our military and depend more on the Guard and Reserve to step in, particularly in terms of our peacekeeping missions.

It is very important that we maintain good and adequate benefits for the Guard and Reserve. So while we cannot accept that amendment at this time, I

wanted to put this statement in the RECORD and ask our chairman to perhaps consider next year that we offer the same benefits to our Guard and Reserve unit.

I thank the Chair.

Mr. WARNER. Mr. President, I, likewise, would like to see this. But I have to do what I have to do to keep the cost of this bill down. It is very large at this time.

Ms. LANDRIEU. I understand that.

Mr. WARNER. Next year, we will take a fresh look. Momentarily, I will advise the Senate on the balance of the amendments that the managers know of. Hopefully, we can get to final passage very early this afternoon.

We still have the amendment of the Senator from Iowa, Mr. HARKIN, and that is, I am certain, going to be accepted on both sides. It relates to the costs. I think we will have a good estimate of the costs now coming in from the Department of Defense before we ask for passage of that amendment.

Senator COVERDELL has an important amendment—a sense of the Senate—to codify some extension of tax filing deadlines for men and women of the Armed Forces.

Mr. LEVIN may have an amendment, which is sort of generic to the entire bill, is my understanding. There is some indication that the Senator from Florida may wish to address an amendment. I have looked at it, and as soon as I have the opportunity to speak with him, I will express my strong concerns regarding that amendment on this bill. I will withhold those comments for now.

Is the Senator finished?

Ms. LANDRIEU. Yes.

MORNING BUSINESS

Mr. WARNER. Mr. President, the leadership has authorized me to say that the bill now will be laid aside until the hour of 2 o'clock. Between now and then, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as the Senator from Colorado, I ask unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. I now ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:46 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

UNANIMOUS-CONSENT AGREEMENT—S. RES. 45

Mr. LOTT. Mr. President, I have a unanimous-consent request to propound. It has been cleared with the Democratic side of the aisle, and so I would ask unanimous consent that at 11 a.m. on Thursday the Foreign Relations Committee be discharged from further consideration of S. Res. 45 and the Senate proceed to its immediate consideration under the following limitations: 1 hour of debate equally divided between Senators HUTCHINSON and WELLSTONE, no amendment in order to the resolution or preamble; and I further ask unanimous consent that following the conclusion of the debate the Senate proceed to a vote on the adoption of the resolution with no intervening action or debate.

I might say this is expressing the sense of the Senate regarding the human rights situation in the People's Republic of China.

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

SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, I have not spoken on the bill pending before us, so if I need to have time yielded, I would like to speak on this issue.

Mr. President, S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999 is a much needed first step in fixing the problems of a military that I fear has been in a death spiral, quite frankly, after continued years of underfunding by the two previous administrations, both this one and the previous one. It started some 10 years ago, slowly, in the aftermath of the wall coming down and the Soviet Union being broken apart. But it has been a continuing slow process that has really started having a profound impact.

Now, I must say we finally got the title correct—Soldiers', Sailors', Airmen's and Marines' Bill of Rights, because I referred to it early on as the Soldiers' Bill of Rights, and I quickly heard from the marines and the airmen and the others that it is for all of our military personnel. I think this is a very important bill. It addresses key areas that really have negative effects on our military and on retention.

And so right up front I congratulate the chairman of the committee, Senator WARNER, from the great Commonwealth of Virginia, for his leadership. This is a perfect example of one bill that, while we were involved in the impeachment process, we had committees at work having hearings, developing legislation and, yes, in fact reporting bills. This bill was actually reported, I think, about 3 weeks ago, and a lot of thought has been given to it. I know it has bipartisan support. I know that there are Senators, such as the Senator from Georgia, who have had input in this legislation. Senator ALLARD, the chairman of the subcommittee has been involved; Senator ROBERTS has been very supportive of this concept, so I want to commend them all.

Mr. WARNER. Senator MCCAIN.

Mr. LOTT. Senator MCCAIN obviously has been involved, and Senator THURMOND. All of the Armed Services Committee members, and members that are not on the Armed Services Committee, have been following this very closely.

I know there are some who say, well, maybe we should have had more hearings or perhaps in some areas it goes too far. I just have to say I don't agree with that.

Budget considerations are important, always important. Finally, we have gotten to a balanced budget, perhaps to the point where we will have some surplus, and we want to keep it that way. We want to keep moving in that direction. We want to have enough of a surplus that we can return some of the overtax back to the people who earned that money, but we must keep our military strong. If we do not raise the pay for our military men and women, they will not come to the military. They will not volunteer. If we don't fix their pension problems, they will not stay; they will leave. The pilots will leave, but even more dangerously the chiefs will leave and the sergeant majors and the master sergeants, the people who really make the military do its job, not to diminish the administration and the generals or the newly enlisted. But those people who have been in there 10, 15 years, they are going to look at this pension system as it now stands, and they are going to say, It is not worth it; I can't do it to my family, and they will get on out.

This needs to be done. In my opinion, it is overdue. And at a time when we are asking more and more of our military men and women with less and less to do the job, it would be folly—in fact, it would be insanity—for us not to do this bill and do it now. We can work on some of the budget problems as we go along, but there is one thing that takes even a higher priority, in my opinion, than budgets, and that is the defense of our country. If we don't have good military men and women, good equipment, if they can't train properly, they are not going to be able to fulfill these missions that we have sent them off on around the world—the Persian Gulf, Somalia, Haiti, Bosnia, and then, of course, we may be faced with difficult situations involving Iran and North Korea, Kosovo. Who knows. And so this bill will begin doing some of the things that should be done.

It authorizes a 4.8-percent military pay raise. That seems to me to be the minimum we should do for them. It starts closing the 13.5-percent gap between military pay and the private sector wages. It reforms the military pay

tables effective July 1, 2000, by targeting midcareer commissioned and noncommissioned officers, skilled specialists considering a move from the military ranks and civilian life after years of training and investment by this country into the military.

Very importantly, I think it revises the military retirement system providing the option upon reaching 15 years of service of reverting to the pre-1986 plan which provided a 50-percent base multiplier and no cost-of-living allowance, COLA caps, or receiving a one-time $30,000 bonus and remaining under the REDUX plan.

Perhaps you think a 50-percent base multiplier is too high. I don't. I don't. What is our own retirement percentage here in the Congress? And so I think this is a solution that will be very important and will be welcomed by our military men and women.

It authorizes active duty military personnel to participate in the Thrift Savings Plan. Once again, we do. Why shouldn't they be able to do that? It encourages savings so that when they do get out, if they don't have enough from their pension, at least they will have this little Thrift Savings that they have benefited from.

It has a special subsistence allowance for service members of the grade E–5, the ones I was referring to a while ago, and below who demonstrate the need for food stamps to support their families. People in America don't believe this. When I go around and I talk to constituents in my own State and tell them that once again we have the situation where we have E–5s and below in the military who are now having to go to food stamps, they don't believe it. They don't want to believe it. They want us to do something about that.

This allowance would provide $180 a month and remove thousands of enlisted families from the food stamp rolls. It revises benefits under the G.V. ''Sonny'' Montgomery GI bill, eliminating the $1,200 contribution required of members who participate in this program, and other benefits. And we will have to look carefully at the cost and how that is going to be handled. But I think the GI bill, when we got it back in place, meant an awful lot to our military men and women. And when we look at the past half century in this country, talk to the people who really turned this country into the strength or the power that it is, it was so many of those World War II veterans who came out, such as the distinguished Senator here from the Commonwealth of Virginia——

Mr. WARNER. The GI bill.

Mr. LOTT. The GI bill—went to college, got an education and went out and built America. That is a great investment. Any time you encourage people, young people, or military retirees to go get an education, you get your money back manyfold over.

This bill requires an annual report on the impact of these programs on recruitment and retention. We don't want to just do it for the sake of doing it. We have a purpose here. We want to help these military men and women. We want to keep them in the military.

I wrote a letter last summer expressing my great concern about the situation and how dangerous I thought the military readiness was becoming. I wrote that letter to the President. And yet we have continued to have increased deployments with undermanned units, spare parts shortages, recruiting shortfalls, rising accident rates, and a mass exodus of pilots in particular.

So, I was expressing that concern, and hopefully it looks like it has had some impact. Because, while it really does not amount to very much, the administration has indicated they are willing to go along with some improvements, and I hope and believe the President will sign this bill when it gets to his desk.

Also, a hearing that was held last fall, on September 29, before the Armed Services Committee. The distinguished chairman of the Armed Services Committee, Senator THURMOND at that time, had those hearings. The Chiefs came in and they acknowledged it. They gave the stories that really exist. They talked about the readiness shortfalls, about us having to beg and borrow for spare parts, and recruitment problems. So they signaled clearly that we had to do something.

I am not going to give the statistics about what is happening for the Army. They are not meeting their recruiting goals. In my own State we have one of the proudest National Guard activities anywhere in the country, I am sure, yet now the Mississippi National Guard is having to advertise in order to get the recruits into the Mississippi National Guard.

We have pilot shortages. We have ships steaming out—I believe it was the George Washington that steamed out to the Persian Gulf last May almost 1,000 sailors short of the 6,000 crew and air group personnel that are normally on board. We cannot allow these types of situations to continue.

In a letter to Senator THURMOND, as chairman of the Armed Services Committee, I also expressed these concerns. A series of hearings on military readiness were undertaken and quickly uncovered the range of problems that the military struggled to contain in an environment of austere budgets. On September 29, we witnessed an unprecedented baring of the collective defense soul, in which every member of the Joint Chiefs of Staff detailed alarming anecdotes about readiness shortfalls, about having to take from readiness and modernization accounts to fund an expanding operational role, the difficulties of recruiting in the present environment, and about the disillusionment and exodus of servicemembers after years of perceived nonsupport.

In an all-volunteer force, if people don't want the job, you have a problem. This country cannot attract, and retain, the people we need to man our military today. Specifically:

The Army reduced fiscal last year's recruiting goal by 12,000, and was still short of its new goal continuing an under manning condition that has existed since 1993. Not only is quantity suffering, but quality also—the Army is well below its 84 percent High School graduate benchmark.

As I said, the Navy was thousands short of its recruiting target, and the aircraft carrier *George Washington* deployed to the Persian Gulf last May was ''almost 1,000 sailors short of the nearly 6,000 crew and air group personnel that it normally has.''

Retention problems also are occurring in our Officer corps. The Air Force is suffering what some call a ''hemorrhaging'' of its pilot corps. Air Force pilot shortages will grow to 2341 by fiscal year 2002. Army pilot inventory is approximately 15 percent short of total requirements. Navy Surface Warfare Officer Department Head tours have been extended from 36 to 44 months due to retention shortfalls.

While many would attribute the current manning problems to the robust economy, I believe the situation is much more complex. We have had 3 different reviews of our national security strategy since the end of the cold war, and the end result of all these reviews has been to reduce the size of the force to where it is now—at its lowest level since before the Korean war. These reductions have not been carried out with a similar reduction in the number of missions and deployments. All of the missions performed during the cold war, be they the stationing of forces in Europe or Asia, or routine deployments at sea, are still being performed while we have had a significant growth in contingency operations.

While personnel tempo has increased significantly the pay and benefits to our men and women in uniform have decreased. The pay differential between the private sector and our military has continued to grow—now at 13.5 percent; there are three different retirement systems currently in place with each one providing less than the previous one; and the medical system does not provide medical benefits to all that have earned them.

Mr. President, the U.S. military is out of balance. We need to get the missions, manning, equipping, pay and benefits synchronized to enable us to continue with a quality force into the 21st century.

Today we have a very bright, talented all-volunteer force, yet we cannot attract the number of individuals required to adequately support our Armed Forces. Why? We are out of balance. Too few people are being asked to do more, and spend longer periods of time away from their families.

We also are mortgaging our future modernization efforts to keep readiness up. For example: ten years ago we talked about a 600-ship Navy. Today we are building only 6 to 7 ships per year

or enough to keep 150 ships alive. Flying hours, steaming hours, maintenance, and spare parts are all under continued stress because of continued deployments.

It all boils down to the fact that both the personnel and equipment are in a downward spiral. Our quality people are leaving and they are not being replaced. Similarly, the un-replaced worn out equipment is just becoming more worn out. The longer this spiral continues, the worse it becomes.

The problem can be fixed, but the solutions will not be easy and without pain.

First, it requires more discipline on part of the administration and the Congress—this country cannot continue sending our military men and women around the world on every humanitarian/peacekeeping mission—just because someone in the administration thinks it is a good idea. We have to change our approach to using the military as the world's police force. This is a philosophical problem.

Remember, the reason we have a military is to defend our interests around the world—by force of arms, if necessary. Right now, we are sending our military to the four corners of the globe for noble—but wrong—reasons. Passing out food and blankets is fine and good. But what if it costs us the ability to fight and defend our interests in places where it really counts?

In addition to being more disciplined, we need to add money to the defense top line for pay, training, operations, and equipment. In other words, we need a better balance between the missions, the manpower, the equipment and the defense budget than what we have today.

Congress has done—and continues to do—what we can to help solve the problem. The United States is the leader of the world—freedom-wise, economically, and militarily. Our military underwrites all the rest. My concern is that we are underestimating the need for our Armed Forces in today's world and that we are not preparing to deter in tomorrow's world. The answer: increase defense spending, balance short-term needs with long-term investment, and tune today's spending to the needs of the deploying forces. It is essential that we maintain our preeminent military, however, I see it threatened by the current downward spiral in morale, personnel, and equipment that I have described.

When the Founding Fathers wrote the Constitution, their highest priority was the federal government's role in maintaining a strong national defense. They did not put a price tag on America's national security. They knew there was no way to predict future threats and national trends to our country's security.

If you look back at the history of our country, we have drastically reduced the size and strength of our military following a conflict. Each time we cut our defense, another trouble spot emerged and we had to build up to meet the challenge. Unfortunately, we are repeating the past, but this time it is happening on our watch.

So today, I am asking my colleagues, on both sides of the aisle, and the administration, to join me in passing S. 4 quickly. Lets joint together and send our men and women in uniform a message that we care about them. Lets joint together and have S. 4 ready for the President's signature on Memorial Day.

This bill represents substantive efforts to increase military benefits to help the recruitment, retention, and ultimately readiness problems faced by the military. I commend Senator WARNER, the new chairman of the Armed Services Committee, for holding his first hearing on this very important subject. The ongoing efforts by Senators ROBERTS and MCCAIN reflect much of the foundation of this bill. And Senator ALLARD, the newly named chairman of the Armed Services Personnel Subcommittee, has shown his commitment to our uniformed servicemembers through his strong support. Senator CLELAND of Georgia also has provided substantive changes to this bill to make it better.

I've said it earlier and the Joint Chiefs have said it at the Readiness hearings—People form the backbone of the military. We must take care of them first. The Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 is the first step that the 106th Congress can take to achieving this goal.

So, I just wanted to come to the floor and take advantage of this opportunity to express my concern, to express my support for this legislation. I think this is the right way to begin this year as we look to the issues we want to address, to start off by making sure we are going to have adequate pay for our military men and women, and an adequate pension system, and begin to reduce the readiness shortfall. I think this is the proper thing to do.

Mr. WARNER addressed the Chair.

Mr. LOTT. I am glad to yield to the Senator from Virginia.

Mr. WARNER. Before the distinguished leader leaves the floor, I ask unanimous consent that letter to which he referred be appended to the portion that the Senator is putting into the RECORD. That was the engine that is taking this train over the mountain. It was way back last summer I expressed to him on behalf of the committee, and indeed the Senate, thanks for the leadership the Senator has given from day one on this issue.

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

U.S. SENATE,
Washington, DC, June 26, 1998.

Hon. WILLIAM JEFFERSON CLINTON,
The White House, Office of the President, Washington, DC.

DEAR MR. PRESIDENT: I am very concerned about the growing inability of our country to man the uniformed services. Not only is there difficulty in recruiting, but also in our ability to retain key personnel. The Army has reduced this year's recruiting mission by 12,000, which will continue an undermanning condition that has existed since 1993; the Navy has recently announced that it will fall 7,200 short of their recruiting target, and on a recent deployment the aircraft carrier George Washington was short over 1,000 sailors; and the Air Force is suffering what some called a ''hemorrhaging'' of its pilot corps.

While many would attribute the current manning problems to the robust economy, I believe the situation is much more complex. We have had three different reviews of our national strategy since the end of the Cold War, and the end result of all these reviews has been to reduce the size of the force to where it is now, its lowest level since before the Korean War. These reductions have not been balanced out with a similar reduction in the number of missions and deployments. All of the missions performed during the Cold War, be they the stationing of forces in Europe or Asia, or routine deployments at sea, are still being performed while we have had a significant growth in Contingency Operations.

While Personnel Tempo has increased significantly, the pay and benefits to our men and women in uniform have decreased. The pay differential between the private sector and our military has continued to grow, there are three different retirement systems currently in place with each one providing less than the previous one, and the medical system does not provide medical benefits to all that have earned them.

Mr. President, while I believe that more money needs to be allocated to our National Defense, it needs to be done prudently. We need to get the missions, manning, equipping, and pay and benefits synchronized to enable us to continue with a quality force into the 21st century. I urge you to make this a high priority of your fiscal year 2000 budget request.

With kind regards and best wishes, I remain

Sincerely yours,

TRENT LOTT.

Mr. LOTT. I thank the chairman very much.

Mr. WARNER. I think, with the concurrence of the distinguished ranking member, we can represent to the majority leader and Democratic leader we will have final passage here within a matter of a few hours, I hope.

Mr. LOTT. That is good news.

I might conclude by saying I had a good discussion late yesterday afternoon with the Democratic leader, Senator DASCHLE, and he joined me in expressing the feeling this is going to have very broad bipartisan support. I am glad to hear that and I hope we can get it quickly through the other body and to the President for his signature. Thank you for your leadership, Senator WARNER, and I yield the floor.

Mr. WARNER. I thank the leader.

Mr. CLELAND. Mr. President, I am extremely pleased to have this opportunity with my colleagues, Senators WARNER, LEVIN, ALLARD, and others—to support S. 4, The Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999. I strongly agree that this bill represents an excellent step toward providing the men and women of the military a clear signal that we the people of the United States and we the

members of the Congress of the United States value their contributions, understand their needs and concerns, and understand our obligations to provide for those who have answered the calling to defend our Nation.

The signal that we send to the people in the military and to the people of the United States should be one of hope and opportunity, and one that understands the critical needs of military members and their families. Twenty-five years ago Americans opted to end the draft and to establish an all-volunteer military force to provide for our national security. That policy carried with it a requirement that we invest the needed resources to bring into existence a competent and professional military. Currently, all services are having various but alarming difficulties in attracting and retaining qualified individuals. Seasoned, well-qualified personnel are leaving in disturbing numbers. Specifically, the Navy is not making its recruiting goals. The Army cites pay and retirement, and overall quality of life as three of the top four reasons soldiers are leaving. For the first time the Air Force is not expecting to make its re-enlistment goals, and the Air Force is currently 850 pilots short. The Marine Corps is hampered by inadequate funding of the pay and retirement and quality of life accounts in meeting its readiness and modernizing needs. All services, including the Guard and Reserve Components, are experiencing similar recruiting and retention problems. These shortfalls must be addressed if our Nation is to continue to have a highly capable, cutting edge military force.

In fact, if we do not address these critical needs correctly, we may well have missed our chance to properly provide for our National Defense in the 21st Century.

In light of our recent successful operations around the world, in the Persian Gulf and elsewhere, we must redouble our efforts to ensure that we continue to recruit, train and retain the best of America to serve in our armed forces, which is the goal of this legislation. Equally important, this bill, for the first time in a long time, addresses the immediate family members of our brave Soldiers, Sailors, Airmen, and Marines. The Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 addresses the concerns of Secretary of Defense Cohen, the Joint Chiefs of Staff and Congress regarding recruiting a strong, viable military force for the 21st Century. It also significantly assists in retaining the right military personnel for the 21st Century. If we fail today to address these key issues, now when we have the combination of a strong economy, a relatively positive budget outlook, and a world which is largely at peace, we may well have missed a key window of opportunity. The bill we are introducing today goes a long way toward eliminating the deficiencies that we all have recently heard so much about from the Chiefs and a myriad of experts who are greatly concerned about the readiness of our military force, especially as we look a few years ahead.

Military experts, defense journalists, former Secretaries of Defense, former Service Chiefs, former theater Commanders in Chief, research and development specialists and even civilian industry leaders agree: the number one factor undergirding our superpower military status is the people of our Armed Forces. This critical ingredient means something different today than it did on the beaches of Normandy, in the jungles of Vietnam, or in fact even on the deserts of Kuwait. Today, the people of our miltiary are as dedicated, as committed, as patriotic as any force we have ever fielded. They are, in fact, smarter, better trained, and more technically adept than any who we have ever counted upon to defend our Nation. Operation Desert Fox proved this fact. This flawless, but dangerous and stressful, operations involved 40,000 troops from bases virtually around the world. Over 40 ships performed around the clock strikes and support. Six hundred aircraft sorties were flown in four days, and over 300 of these were night strike operations. This massive efforts was carried out without a single loss of American or British life. And, this is but one operation that our military (active and reserve) are successfully conducting worldwide.

In contrast to this and other post-Vietnam successes, consider the problems which face the people in uniform. New global security threats and our strong economy each exert enormous pressures on the people in the military and their families. By some measures the pay for our military personnel lags 13 percent behind the civilian pay raises over the last 20 years. Yet, we ask our military to train on highly technical equipment, to commit themselves in harm's way, to leave their families, and to execute flawless operations. Sometimes these operations are new and different from any past military operations, but they can be just as dangerous. Meanwhile, some of our service members qualify for food stamps, do not have the same educational opportunities as their civilian counterparts, must deal with confusing and changing health benefits and/or can not find affordable housing. Something is badly wrong with this picture, and the Congress and the administration must work together to set things right.

Specifically, we need to recruit good people, continue to train them, and retain them in the military. This is difficult at best with the changes in our society, the rapidly changing threats to our security, and a prosperous economy. As I heard a service member say during a hearing I held at Fort Gordon, GA, last year, we recruit an individual, but we retain a family.

Some of the recruiting and retention problems of today's United States military are well documented. Others need to be more thoroughly explored. They all need to be addressed. The Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 is but the first step. It is the beginning. I caution my colleagues that today's servicemen and women, and their families, are intelligent and are quick to recognize duplicity in the words and actions of our civilian and military leadership. Our military's most important assets—its people—are leaving the military, and many of America's best are not even considering joining the military. We must proceed expeditiously, with firm purpose and unified non-partisanship if we are to reverse these dangerous trends.

We must act now, but we must consider the time proven process of the United States Senate. We need to make sure that we have the proper hearings and discussions within the proper framework before we over-react to the critical needs facing our military Services.

This bill responds to current data which provide some insight into how we can more effectively respond to today's youth and their service in the military. This 106th Congress has a tremendous opportunity to respond to today's military personnel problems. We must keep our focus on current and future personnel issues, including recognizing and responding to the need to retain a family. This legislation is only a start.

Mr. President, the bill includes all three parts of the Department of Defense's proposed pay and retirement package. It incorporates some of the recommendations made by the congressionally mandated Principi Commission, and it provides some additional innovative ideas for addressing these key personnel issues, now and into the future.

First, the bill provides a 4.8 percent pay raise across the board for all military members, effective January 1, 2000, and carries out the stated objective of Secretary Cohen and the Joint Chiefs of Staff of bringing military pay more in line with private sector wages. This increase raises military pay in FY2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI), and represents the largest increase in military pay since 1982. This plan would provide for future annual increase in military pay of one-half percent above the annual increase in the ECI. Although I believe we should support the Department of Defense on this issue, of providing one-half percent above annual increase in the ECI for FY2000 to FY2005, our chairman and others have chose to provide more.

Another of the Joint Chiefs' recommendations included in our legislation is the targeted pay raise for mid-grade officers and enlisted personnel, and also for key promotion points. These raises, amounting to between 4.8 percent and 10.3 percent, which includes the January 1, 2000, pay raise

and would be effective July 1, 2000. This is a powerful retention tool for our Service Secretaries.

The third part of our legislation is a revision in the Military Retirement Reform Act of 1986, which would provide an option at 15 years of service for a service member to return to the pre-Redux retirement system (50 percent basic pay benefit for military members who retire at 20 years of service) or to elect to receive $30,000 bonus and remain in the Redux retirement.

I am proud to say that in addition to the pay and retirement benefits package proposed by Secretary Cohen and the Joint Chiefs, our legislation includes several key recommendations from the recent report of the Congressional Commission on Service Members and Veterans Transition Assistance, also known as the Principi Commission. These provisions are specifically designed to assist the military services in their recruiting and retention efforts.

Information and data that we are seeing indicate that education benefits are an essential component in attracting young people to enter the armed services. This may be the single most important step this Congress can take in assisting recruitment. Improvements in the Montgomery GI Bill are needed, and our bill represents a vital move in that direction.

In keeping with the Principi Commission, our legislation would increase the basic GI Bill benefit from $528 to $600 per month and eliminate the current requirement for entering service members to contribute $1,200 of their own money in order to participate in the program. These changes should dramatically increase the attractiveness of the GI Bill to potential recruits, and give our Service Secretaries a powerful recruiting incentive.

This legislation also adopts the Principi Commission recommendations to allow service members to transfer their earned GI Bill benefits to one or more immediate family members. Mr. President, this idea is innovative, it is powerful and it sends the right message to both those young people we are trying to attract into the military and those we are trying to retain. CBO estimates that in the long run over 500,000 children of members or former members would use the educational assistance each year but that level would not be reached until about 2013. It is important that we continue to act on this piece of legislation. History tells us that these chances come only once, and this Nation changed drastically under the original GI Bill, and now we have the chance to address future issues with this education piece of this legislation.

This legislation includes a provision that would allow military members to participate in the current Thrift Savings Plan available to Federal civil servants. Under this proposal, which adopts another recommendation of the Congressional Commission on Service Members and Veterans Transition Assistance, military members would be permitted to contribute up to 5 percent of their basic pay, and all or any part of any enlistment or reenlistment bonus, to the Thrift Savings Plan.

Mr. President, based on our initial estimates, it is my understanding that the provisions contained in this legislation will not require us to increase the funding for national defense above the levels in the President's FY2000–2006 Future Years Defense Plan. However, more precise costing will have to be done by the Congressional Budget Office over the next several weeks.

I know that all Members of the United States Senate are committed to the well-being of our service men and women and their families. They are doing their duty with honor and dignity. They are serving our country around the globe. They, along with their families, deserve our commitment. The bill we are introducing today is fair and will ensure that we continue to attract and retain high quality people to serve in our armed forces. It represents the beginning of a process to provide hope and opportunity to those who wear the uniform of our Services. The President has announced a very good plan, as has the distinguished majority leader. We must move forward, together, in addressing these important personnel and readiness issues.

In closing, I want to recognize the leadership of Senator WARNER, and Senator LEVIN, and the other members of the Armed Services Committee who are cosponsoring this legislation. We are all absolutely committed to the welfare of our service men and women and their families. They provide for us, and it is time for us to provide our obligation to them. I look forward to working with Senator LEVIN, Chairman WARNER, and all of our colleagues on the Armed Services Committee in the months ahead so that we can honor those who have honored us.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 26

(Purpose: To amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans)

Mr. ROCKEFELLER. Mr. President, I ask the pending amendment, which I believe is No. 26, which is at the desk, be taken up for immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 26.

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

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

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

Mr. ROCKEFELLER. Mr. President, I am pleased to offer this amendment, which the Senate passed overwhelmingly last year. Senator JEFFORDS and I offered it, and, with the full concurrence of the Senate, we passed this amendment which I now offer to this very excellent bill, S. 4.

The amendment would authorize a pilot project. One of the criticisms of people from my side of the aisle is we try to do everything full scale. I happen to believe if you have something which you think is a good idea but which is not yet necessarily fully tested, that it is a good idea to test it. Therefore, I think the idea of demonstration sites is a very good idea.

My amendment would authorize a pilot project to allow the Veterans' Administration to do something which boards and advisory commissions have been advising for years and which many of us have been supporting for years and which the veterans groups all support. That is to allow the Veterans' Administration to bill Medicare for health care services provided to certain dual beneficiaries—people who qualify for both.

Senator SPECTER and I are together offering, as chairman and ranking member of the Veterans' Affairs Committee, an amendment. What we basically do in this amendment is authorize a pilot project, as I indicated before, to allow the VA, for the first time, to bill Medicare for health services provided to certain dual beneficiaries.

It is known as the VA Medicare subvention amendment or concept. And it has been around for a very long time, as I indicated. Our services organizations have been for it. Virtually every advisory body that has ever taken a look at the Veterans' Administration and its health care has suggested that this has to happen.

In the past, many VA hospitals and clinics have been forced to turn away middle-income Medicare-eligible veterans who sought VA care. Last year we made VA open to everybody. On the other hand, people who have Medicare, if they wanted to go to a VA hospital, they would have to pay out-of-pocket costs because Medicare would not pay for it. So Medicare is paying for them at one place but they are not paying for them at a veterans hospital where they might prefer to go, either for professional reasons, medical reasons, geographic reasons, or whatever.

So these VA hospitals simply did not have the resources to care for them. Now, due to changes in the law, all enrolled veterans will have access to a uniform, comprehensive benefit package. Yet, resources for veterans' health

care have not increased and, in fact, in the budget have remained absolutely flat. That is another subject which I will not get into today.

For veterans, approval of this veterans subvention amendment would mean the infusion of new revenue to their health care system—not more cost—because remember that the Medicare which they are now getting is already being paid out. It is being paid out to wherever they are going. But if they choose to go to the VA hospital, it will actually be Medicare, but, as I will explain in a moment, less. It will be Medicare minus about 5 percent. So the cost factor is very favorable.

For the Health Care Financing Administration, HCFA, a VA subvention demonstration project would provide the opportunity to assess the effects of coordination on improving efficiency, access, and quality of care for dual-eligible beneficiaries in a selected number of sites—let's say, 8, 9, 10, 6, whatever it might be.

Congress would receive the results of this test study, this demonstration project. You do it in various States or parts of States, and then you would know, how do veterans react? Do they want to keep their Medicare at the hospital they are going to already, which is not a VA hospital, or now, if we pass this amendment as was passed in the reconciliation bill last year, will they decide, no, we want to go to the veterans hospital because it is closer to our home, we feel more comfortable there, we are among our colleagues there? And Medicare would pay for it. In either event, Medicare is paying. But if they go to the VA hospital, under our demonstration, Medicare would pay 5 percent less in fact.

So Congress would then get the results of this test study, Mr. President. And then, once and for all, it would give us the really necessary data, the experiential data, the medical data, to make rational policy decisions in the future about Medicare and VA's involvement: Are they going to cross fertilize in a useful way or are they not?

In my own State of West Virginia, there are four centers of the Veterans' Administration. They spent nearly $5 million caring for middle-income, Medicare-eligible veterans last year. Although this is useful information, I cannot provide my colleagues with the really interesting piece of the story; and that is, the number of these Medicare-eligible veterans who are out there. Remember, there are 27 million of them. And except for about 3.3 million of them, all of them, if they now go to a VA hospital, will have to pay out of pocket; they cannot use Medicare.

That is what this amendment is about. So what we want to find out is, how many veterans are there, who are out there now in this test area, who cannot bring their Medicare coverage with them to the VA hospital because it does not do them any good and therefore they have to pay out of pocket? This demonstration project would encourage, hopefully, these eligible veterans who have not previously received care at VA hospitals to be able to make the decision whether or not that is what they want: Do they want to go to Beckley or Martinsburg or Clarksburg or Huntington to get their health care, or do they want to stay with their present health care situation?

As in years past, this amendment is designed to be budget neutral. To that end, the Veterans' Administration will be required to maintain its current level of services to Medicare-eligible veterans already being served and would be effectively limited to reimbursement for additional health care provided to entirely new users.

Payments from Medicare would be, as I said, at a reduced rate—about 5 percent less than their ordinary rate. Disproportionate share hospital adjustments would be excluded from all of this. Graduate medical education payments would be excluded from this, not a part of it. A large percentage of capital-related costs would be excluded from all of this.

So, in effect, the Veterans' Administration would be providing health care to Medicare-eligible veterans at a deeply discounted rate. It is a pretty good deal. It is a pretty good deal. The Department of Health and Human Services and the Veterans' Administration would have the ability to adjust payment rates, and, frankly, they would have the ability to shrink or in fact to terminate the program if they did not like the direction that Medicare costs were going.

In the event that all of these safeguards included in the proposed amendment fail, an event which the VA does not anticipate will happen, then Senator SPECTER and I, specifically in our amendment, propose caps to all Medicare payments to the VA at $50 million for an entire year.

A HCFA representative testified before the last Congress and stated that the proposal will provide quality service to certain dual-eligible beneficiaries and ''at the same time, preserve and protect the Medicare Trust Fund for all Americans.''

In 20 minutes I am going to the President's Commission on Medicare. We are very closely looking at all of these kinds of things, although Medicare subvention I do not think is going to be brought up. The VA subvention proposal is a very small effort compared to other recent changes made to the Medicare Program and changes yet to come which may come from the President's Commission. We will see. But it is enormously important for our veterans, Mr. President, and the health care system that they depend upon. Regardless of any policy changes resulting from the President's Commission, an excellent opportunity will remain for VA to test the idea of Medicare subvention.

I want to remind my colleagues that during the first session of the 105th Congress, Senator JEFFORDS and I successfully pushed a similar, precisely similar proposal, virtually similar proposal, through the Senate Finance Committee and the full Senate. Over the last couple of years, I have tried a variety of ways to enact this proposal. We have constantly met resistance. Others who favor the subvention concept have tried to turn this, the narrow concept of Medicare subvention, into some sweeping policy changes for the delivery of VA health care. That is not my goal. My goal is simply to get Medicare subvention without any extraneous amendments and additions.

Again, it is a very easy concept. Let's say there are 24 million veterans out there now who are eligible for Medicare, and they are in effect eligible also to go to a VA hospital but in effect they are really not, because if they go to the VA hospital they are going to have to pay for their health care out of pocket. So they do not go.

So if you want to find out how veterans feel about the hospital that they are at or the VA hospital and the health care that they are receiving, the stimulus that this would cause to happen for all involved—competition in the marketplace is one way of looking at it—Medicare subvention makes an enormous amount of sense to the American taxpayer and an enormous amount of sense to veterans.

This VA proposal is a way to provide quality health care to veterans who are also eligible for Medicare while at the same time, as I say—and I am very aware of this because I am very closely connected to it—protecting the Medicare trust fund.

So let's not delay this any longer. The veterans have wanted this a long time, as I say. No group that has studied this has not suggested this as an easy, obvious solution. It is extremely low budget. It is capped and has all kinds of audits built into it. As I say, Medicare is only going to be reimbursing the VA hospitals at 95 percent of what they would ordinarily reimburse for similar services. I think it is an enormously important proposal. And at the proper time I will ask for the yeas and the nays.

Mr. WARNER. Would the Senator consider asking for the yeas and nays now?

Mr. ROCKEFELLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I commend my distinguished colleague from West Virginia for this legislation. I support it enthusiastically. I also commend our colleague from Vermont, Senator JEFFORDS, for the work which he has done in this field, as referred to by the Senator from West Virginia.

This amendment would constitute a win-win-win situation. We frequently hear about win-win, but not too often do we hear about win-win-win. It is a

three-time winner: First, for the veteran who would have an opportunity to have care at the veterans hospital of his choice when reimbursement is made by the Medicare funds; it would be a win for the Veterans' Administration, which is very short of money; and it would be a win for Medicare, because Medicare would get a reduced payment of 95 percent.

Senator ROCKEFELLER is ranking member on the Veterans' Affairs Committee, which I chair. We are enormously concerned about the low level of funding which has been proposed. We have a $17.3 billion budget which is totally insufficient. That has led us to look to other sources of funds.

For example, the insurance premium payments, where a veteran has insurance which we are trying to get paid to the Veterans' Administration and to the hospital where he is treated: Here you have the anomalous situation where veterans are entitled to Medicare but they are not getting it, and they cannot go to a veterans hospital without paying for at least a portion of the medical care themselves in many cases. This will give them the opportunity to go to the Veterans' Administration hospital of their choice, to be paid for by Medicare.

On a personal note, my father was a veteran of World War I and received medical treatment at the veterans hospital in Wichita, KS. I remember as a youngster riding my bicycle to visit my father when I was 7 years old. One of the added attractions was that they had a pinball machine. It cost 5 cents in the drugstore, at a penny arcade in Wichita it was less expensive, but there was a free pinball machine at the veterans hospital. But I always went there to see my father. That was a long bicycle ride. Now Wichita has extended on the east end all the way to the veterans hospital.

My father in World War II served in the Argonne Forest. He was an immigrant. He walked across Europe with barely a ruble in his pocket, from a small village in Ukraine. The family lived in a one-room dirt-floor house in a village called Batchkurina. My wife Joan and I visited it in 1982. He had a steerage ticket to the United States. He did not know that he had a round-trip ticket to France—not to Paris and the Folies Bergeres, but to the Argonne Forest. He was a doughboy. He rose to the rank of buck private. Next to his family, his greatest pride was serving in the U.S. Army. I have his plaque, which was the equivalent of the Purple Heart in World War I for wounded veterans. I thought it was the Statue of Liberty knighting my father, but I later learned it was a plaque given to the 100,000 veterans who were wounded.

My father was in an accident in 1937 when he was riding in a brand new automobile and the spindle bolt broke. The car rolled over and rolled on to his arm. He was able to receive medical care at the veterans hospital. Had he not had that care, I don't know what would have happened to him because 1937 was a very tough year for Americans generally, but an especially tough year for my immigrant parents who had four young children to support. That experience at the veterans hospital in Wichita has stayed with me as sort of a hallmark of medical care for America's veterans.

I think it is generally recognized that we do not do enough for our veterans. After recognizing it, we don't do very much about it. It is a constant budget struggle. Last year, billions of dollars were taken from the Veterans' Administration for the highway fund. Now we are looking at a very, very tight budget.

I have the attention of the distinguished chairman of the Armed Services Committee who may be coming to the Department of Defense for a small loan here for veterans. This Medicare subvention would give the Veterans' Administration more money. It makes a lot of sense. They now have it for the Department of Defense. Retirees can go to DOD hospitals and have it paid for by Medicare.

I hope we do not get into a jurisdictional battle with the Finance Committee. The Finance Committee passed this measure in the 105th Congress. It was dropped in conference, for reasons which we think are now solved, with the House of Representatives. The DOD Medicare subvention passed and has become law. We need to get this matter done now on this bill which is, as we express it in the Senate, a vehicle which is moving. We need to have this funding so that when we plan our financing in the Veterans' Committee we know the kind of money we have and the kind of money we may expect for the future.

It is my hope that this matter will move forward with alacrity. We will get it done, provide this funding for the Veterans' Administration which is sorely in need of funds, help out the veterans by giving them the choice of where they may get their care, and assist Medicare by having this 5 percent discount.

I ask unanimous consent that a letter from 12 members of the Veterans' Committee, with the lead signators being Senator ROCKEFELLER and myself, be printed in the CONGRESSIONAL RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, February 17, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Hon. DANIEL PATRICK MOYNIHAN,
Committee on Finance, U.S. Senate,
Washington, DC.

DEAR BILL AND PAT: We write to urge the Committee's renewed consideration of a measure that the Committees on Finance and Veterans' Affairs supported last year as part of the Senate's initial consideration of the Balanced Budget Act, S. 947.

For more than five years, Medicare-eligible veterans have called for legislation that would allow them to take advantage of their Medicare eligibility in the VA setting. As you will recall, the Committee on Finance voted to include the VA subvention demonstration measure in its initial BBA package; however, the provision died in conference. The final measure, Public Law 105–33, was silent on this VA provision but did authorize Medicare subvention for military retirees to receive care in Defense health facilities. In discussion with our House colleagues and officials of the Department of Veterans Affairs, we have learned that the reasons for House opposition to the program have been addressed. We understand that the House may be prepared to approve this legislation later this year.

Medicare subvention in VA health care will provide an opportunity to assess the effects of coordination on improving efficiency, access, and quality of care for dual-eligible veterans. Also, the Senate's proposal is budget neutral. To that end, VA would be required to maintain a current level of services to its present patients (including those who are Medicare-eligible) and would be effectively limited to receiving reimbursement for care provided to additional, new Medicare eligibles. Payments from Medicare would be at a reduced rate and would exclude ''disproportionate share'' adjustments, graduate medical education payments, and a large percentage of capital-related costs. In effect, VA would provide health care to Medicare-eligible veterans at a substantial discount.

We urge that the Committee on Finance act on and report this legislation to the floor at an early date. We look forward to working with you and other Members to achieve this major initiative that will help America's Medicare-eligible veterans receive the care that they have earned.

Sincerely,

Arlen Specter, Chairman; John D. Rockefeller IV, Ranking Member; Strom Thurmond; Frank H. Murkowski; Jim Jeffords; Ben Nighthorse Campbell; Tim Hutchinson; Larry E. Craig; Patty Murray; Paul D. Wellstone; Bob Graham; Daniel K. Akaka.

Mr. SPECTER. I yield the floor.

Mr. WARNER. Mr. President, one of the great rewards in the Senate is hearing stories from your fellow colleagues like we just heard about your distinguished father. I say with great pride that my father also served in France in World War I in the Army as a doctor. He was in the battle of the Argonne Forest.

I am always moved when I hear those stories, and how proud both of us are with what our fathers achieved. How lucky we are.

Mr. SPECTER. If the distinguished Senator will yield for a moment, my father has prevailed to support his family and was in the junk business. Many call it the scrap iron business, but it was the junk business.

Senator ROCKEFELLER and I had our paths cross a bit a few months ago when we were in the Steel Caucus. A man from Texas came in from the scrap business—and they have been very badly hurt by imports of steel, which I will not go into at this moment. It gave me occasion to reflect for less than a minute on my experience cutting down derricks.

The wind would blow through the oil fields in Kansas. We lived in Russell, a small town noted for being the home of

Senator Dole. My brother-in-law Arthur Morgenstern and I would go out and cut down the derricks. We would sell the straight pieces of angled iron for two and three quarter cents a pound—price control—and the balance of the junk we loaded on the truck and we would take it over to the railroad and the boxcar and ship it.

When I finished telling the tale of woe—it was a good incentive to become a lawyer—Senator ROCKEFELLER chimed in and said, ''I have had a similar experience to ARLEN SPECTER. My family also was in oil and railroads. We owned the oil companies and we owned the railroads.''

Mr. WARNER. I thank the Senator. I was waiting to see if they had a junk business on the side. I expect not. I was privileged to know the distinguished father of our colleague from West Virginia.

Mr. President, a little note of history and then I will yield the floor. The Armed Services Committee, when we tried to pass a subvention provision for the DOD, we had it twice, but each time the Finance Committee came in and blocked that language in the Armed Services Committee bill and eventually, of course, the Finance Committee did take it and got it passed for the DOD.

Mr. President, I ask the Chair to recognize the distinguished colleague from West Virginia such that he might make some additional remarks.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the distinguished chairman of the Armed Services Committee and the Presiding Officer.

Just three comments: No. 1, I think it is really important to remember that the Department of Defense now has Medicare subvention. DOD has Medicare subvention. And they have it on a test basis. The VA is asking for Medicare subvention on a test basis.

I ask my colleagues, is it really fair in that this is basically a no-cost item and perhaps a cost savings for the DOD people to have it and for VA not to have it when ultimately this is an enormously important test for the future of veterans' health care policy and where they are going to get it.

Second, the point has been made—not on this floor by the people here but referring to others—that this has not gone through the regular process. This has been through the regular process. Senator JEFFORDS and I introduced this yesterday. And it was introduced last year. It passed through the Finance Committee and the Budget Committee last year, and it went through the reconciliation process last year. This has been through the process. It was dropped in conference. It has been through the process. That needs to be made.

Third, that a veteran ought to have the right to decide where he or she wants to get their health care service with their Medicare dollars—and it is a superb way to find out, in fact, what veterans think of VA and/or their present health care service systems. It has to happen. It is good policy. And it is probably a cost saving policy. When the time comes for the vote, I hope that my colleagues will vote ''no'' on the motion to table.

We do a lot of talk about supporting veterans, and we do the best we can. But this is a very important basically no-cost health care way to give veterans something they desperately need and deserve.

I thank the Chair. I thank the distinguished Presiding Officer.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, may I ask my colleague from Virginia—I wasn't clear; he was about to table the Rockefeller amendment.

I ask my colleagues whether I could have 2 minutes in support.

Mr. WARNER. Mr. President, we want to accommodate all of our colleagues. I know the Senator from Florida is waiting.

In response to the Senator from West Virginia, he is right on target on all three points. I agree with him. He will have this Senator's support when the time comes. But I must honor the request of the chairman of the committee, on which the Senator from Minnesota serves, the Finance Committee.

Does the Senator from Minnesota wish to speak to this amendment by the Senator from West Virginia?

I make that request in his behalf.

Mr. WELLSTONE. Mr. President, let me thank the Senator from Virginia for his graciousness, and also Senator GRAHAM from Florida.

Let me just say to Senator ROCKEFELLER that I think the time is right for his amendment to authorize a Medicare Subvention pilot project. We have been through this year after year after year. We have a veterans' health care system that is really struggling with a flat-line budget.

My colleague from West Virginia has shown a lot of leadership on a lot of issues that affect the veterans community. Look, we need to at least have this Medicare Subvention on a pilot project basis. We need to think about a stable source of funding for veterans' health care. Give veterans the choice whether to go to VA for their health care. It should be their choice.

We have such a demonstration project within DOD right now. We ought to be able to do this within the Veterans' Administration. Veterans organizations feel strongly about this. This is the time to support the Rockefeller amendment because the whole question of recruitment, and whether or not young women and men want to serve in our armed services is directly related to how they feel they are going to be treated when they are no longer in the armed services, when they are veterans. Will there or will there not be support for the veterans' health care system? This Rockefeller amendment is a terribly important step in the direction of making sure we have good veterans health care. And I would like to include my name as an original cosponsor, if that is all right with my colleague.

Mr. ROCKEFELLER. I would also ask unanimous consent that Senator WELLSTONE's name be included, as well as Senator KENNEDY.

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

Mr. ROTH. May I ask the distinguished Senator from Virginia, is it appropriate to make some remarks on the amendment on the veterans Medicare subvention amendment?

Mr. WARNER. Mr. President, of course it is appropriate, and I so desire that be done.

Mr. ROTH. Mr. President, I thank the distinguished Senator from Virginia for his comments.

I must say, I rise in opposition to the amendment. As the distinguished Senator from Virginia well knows, the Balanced Budget Act of 1997 requires the Health and Human Services Administration and Veterans Affairs to submit to Congress a detailed implementation plan for a veterans subvention demonstration. This report has not yet been submitted to Congress and is due at the end of this year.

Frankly, a veterans subvention demonstration at this time would be premature. The Department of Defense Medicare subvention demonstration enacted in the Balanced Budget Act of 1997 was carefully crafted in a bipartisan fashion between the committees of jurisdiction in the House and Senate, as well as the administering Secretary to address complex budgetary and design issues.

It is very, very important, Mr. President, that the veterans subvention demonstration should undergo the same process in order to ensure a successful demonstration for all Medicare-eligible veterans.

Finally, as you are aware, the Medicare Part A trust fund is facing an insolvency date of 2008. This is a most serious, critical matter, and the Bipartisan Commission on the Future of Medicare is meeting this afternoon to continue to address the current solvency issue.

I cannot overemphasize how important, in light of this problem of solvency, is careful consideration of the budgetary implication associated with the veterans subvention demonstration in order to prevent the solvency of the trust fund from being further jeopardized.

I will be happy to assure the parties supporting and author of this legislation that we will be glad to work with them in the future in trying to work out legislation that seems appropriate under the circumstances.

As I said, it is critically important that it be carefully crafted because the Medicare legislation is in deep trouble.

As I said, it faces insolvency by 2008. We have set up a special commission headed by Senator BREAUX to try to find a solution to assuring the continued solvency of this program. And to add to the difficulty, the complexity of that problem, by including now a new proposal on veterans Medicare subvention makes little or no sense. For that reason, I strongly support the motion to table suggested by the chairman of the defense committee.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will be very brief. I do have an amendment I want to bring to the floor in a moment, if that is the direction we are going.

Let me just say to my colleague from Delaware, the argument that we ought to wait until we see what happens with this pilot project within DOD is an apples-and-oranges proposition. First of all, it is going to be another year before we know what happens with the DOD pilot, and, second of all, these are two different health care systems. These are two different health care systems.

The point is, we say it is fine to go ahead with DOD and do a Medicare subvention pilot project, but when it comes to our veterans—our veterans—that's another story. I say to my colleagues again, whether or not men and women want to serve in the armed services is directly correlated to how they are going to be treated when they are veterans. When it comes to veterans, we should have done this a year ago.

It just doesn't cut it to say, ''Well, we have to wait for another year to see how the pilot works out with DOD.'' That is a very different health care system. A year ago we should have had this Medicare subvention demonstration model within the Veterans' Administration, and we are able to do it now. We want to do it. That is why we bring this to the floor.

Finally, let me point out, on the whole budget problem—Senator ROCKEFELLER said it—this amendment is budget neutral. These are new users of the VA system. Everybody who has talked about Medicare subvention has made it crystal clear that there are no negative financial implications for the Medicare trust fund.

I am sorry, these arguments don't cut it. If colleagues want to vote against this, they can vote against it. I will just tell you, I think a vote to table the Rockefeller amendment, the amendment that Senator JEFFORDS has worked on, the amendment that I am very proud to support—I have to say it this way, and I am not playing politics—it really is a vote against veterans.

In Minnesota, I don't find any topic to be more a topic of discussion among the veterans community than health care. I don't find any greater concern than the concern as to whether or not we are going to have a stable source of funding for veterans' health care. This is just a pilot project that takes us in this direction. I cannot believe my colleagues are going to come out on the floor of the Senate and table this. I hope we get a vote against the tabling motion.

Other than that, Mr. President, I don't feel strongly about it.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, yesterday I introduced legislation, which is, basically, now pending, to allow certain Medicare-eligible veterans to go to Veterans' Administration facilities for their care and to allow the Veterans' Administration to bill Medicare for those services, just as a private provider would do. Seventeen of my colleagues joined Senator ROCKEFELLER, Senator SPECTER, and myself in introducing the Veterans Equal Access to Medicare Act, S. 445. It is this legislation that Senator ROCKEFELLER now offers as an amendment to this bill, and I support him.

America's veterans and the Veterans Health Administration are eager to launch this demonstration project which establishes up to 10 demonstration sites around the country where this policy would be tested. The Department of Defense is currently running a very similar demonstration project for military retirees, and the Veterans' Administration is anxious to do the same for veterans.

Allowing veterans to take their Medicare eligibility to a Veterans' Administration building gives them greater flexibility in choosing their care provider. This is good for veterans. It makes good sense, and it would allow the Veterans' Administration to get reimbursed for the care it would provide above and beyond those veterans it is currently treating.

This legislation is budget neutral and is limited in scope, capping Medicare trust fund payments to the Veterans' Administration at $50 million per year for 3 years, payments that would otherwise go to private-sector providers.

Mr. President, veterans want the option of getting their Medicare-covered care at the VA.

The VA wants the option. And we ought to move expeditiously to get this demonstration project underway. I hope my colleagues will support this amendment.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I have a unanimous consent request.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. On behalf of Senator DORGAN, I ask unanimous consent that Anthony Blaylock, a defense fellow serving in his office, be given floor privileges during the debate on S. 4.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I would defer to my colleague. I actually rise for the purpose of offering an amendment, but if my colleague wants to respond to the Rockefeller amendment, I would defer to him.

Mr. ROTH. I just want to say to the distinguished Senator from Minnesota that we are all sympathetic to trying to do something to help the veterans hospitals. We are all interested in assuring that the veterans have the best care possible. But he misunderstood what I said. The fact is, the study that is about to come out, which is to be performed by the Secretaries of Health and Human Services and Veterans Affairs, is to submit a detailed implementation plan for a veterans subvention demonstration. The purpose of it is not to await the results of a defense program and see how it works out. The fact is that there are two different systems, and what may work for defense will not necessarily be efficient or effective as far as the veterans are concerned.

All I was saying is that the Balanced Budget Act of 1997 does require the Secretaries of Health and Human Services and Veterans Affairs to submit a plan, and that we should not act and move forward until we have that report. When we get that report, then we should be in a position to create a demonstration program that meets the necessities, the peculiarities, and the problems that are inherent in the current veterans plan.

So I just wanted to make clear we are not awaiting the results of the Department of Defense intervention program.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I will go forward with this other amendment because I know my colleagues are anxious to move along.

Let me just say to my colleague from Delaware, I have here a memorandum of agreement between the Department of Veterans Affairs and Health and Human Services to go forward with this subvention project. We already have the memorandum of agreement. They are ready to go. All they need is for the U.S. Senate to go on record saying we support it.

One more time, I will just say to my colleagues, sometimes the debate is all civil, but sometimes it is with some strong feeling. I think the veterans community is becoming very impatient with us, and for very good reasons. They have every reason in the world to wonder about VA health care as they look forward to the future. And this amendment is but one small step toward trying to figure out one piece of stable funding. I think it is a terrible mistake to come out here and to move

to table this amendment. And the point I made earlier I think still stands.

Mr. WARNER. Mr. President, I commit to my two colleagues and friends here the support of the Senator from Virginia, but I have been asked by the chairman of the Finance Committee, Senator ROTH—on his behalf I move to table, with his commitment to try to move it in that committee.

I move to table.

Mr. NICKLES. Would the Senator withhold?

Mr. WARNER. It all depends on how long that will be.

Mr. NICKLES. I will speak for 5 minutes on the bill, not on the amendment.

Mr. WARNER. We are not going to have a vote right now. I thank the Senator. I move to table the amendment and I ask unanimous consent that the amendment be laid aside. Eventually we will get to the vote. We will stack them after consultation with the leadership.

Is that agreeable?

Mr. ROCKEFELLER. Yes.

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

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I know my colleague, the Senator from Florida, has an amendment. I want to make a few comments on the bill if that accommodates his schedule. I won't be very long.

Mr. President, I wish to compliment my friend and colleague, Senator WARNER, for his stewardship of this bill, for his chairmanship of the Armed Services Committee, and for his dedication to improving our national defense. He has a proven record in national defense, both as a Secretary of the Navy and his service in the Senate. I understand the support that this bill has by colleagues, and certainly I feel supportive of our military and national defense as well. I have always believed that for the Federal Government our No. 1 priority should be the protection of our people, protection of our country, and the protection of our freedom. This bill will help do this in some ways. So I support those efforts.

I support a lot of what is in this bill, but I don't support everything in this bill. I think it would be less than forthcoming if I didn't express my displeasure with at least two provisions in this bill. Maybe by expressing that displeasure we can remedy that before this bill becomes law. I say that in all sincerity. I want a lot of this bill to become law.

Frankly, when my staff asked me earlier, ''Do you want to sponsor S.4, one of our first bills? It improves national defense, increases pay.'' Well, I have 35,000 to 40,000 troops in my State, and I definitely want to increase their pay. So I support that provision of the bill. When I started reading the summaries of it—and I have a copy of a summary and cost estimate from the Congressional Budget Office, dated February 12, 1999.

I ask unanimous consent that this CBO summary be printed at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. NICKLES. Mr. President, I became concerned about the cost not just of the pay increases, which are handled by appropriation committees every year—in other words, this bill can authorize pay increases of whatever percent, but the appropriators have to come up with the money to do it. They will do that within the budget cycle, and we are going to pass a budget this year. So I am optimistic that will be funded. It will be within the budget and it will be responsible. So, again, I don't have a problem with that portion of the bill, the pay raise. That portion of the bill, I might mention, is $26 billion over the next 10 years. It is about half of this bill. The total cost of this bill is about $55 billion over the next 10 years. So I don't have a problem with the pay raise provision.

I do have a problem with two of the entitlement increases in this bill. I think, with all due respect, they are mistakes. I think increasing the military retirement percentage from 40 to 50 percent is a mistake. Some colleagues say don't raise that. I was in the Congress when we reduced it from 50 to 40. We did that with an overwhelming vote of 92–1. In 1986, we reduced the military retirement schedule from 50 to 40 percent as part of an overall package for entitlement reform in the military. It was overwhelming, 92–1.

Now we are getting ready to do the opposite, increasing it probably from 40 percent to 50 percent. That means that an individual can join at age 18 or 20, serve 20 years, receive retirement pay beginning at age 40 for life, and receive cost-of-living adjustments. That is very expensive. Also, when they are 41 years old, they can seek other employment; I expect that they would do that in most cases. So they would have other employment in addition to the military retirement. It is a very expensive provision. In 1986, changes were made with a lot of work; I think it was work that was well thought out.

I might note that there is a letter from the Concord Coalition, signed by our former colleagues, Senator Rudman and Senator Nunn, which urges us not to do this, saying they worked hard and they were with many of us in the Senate at that time. I will read part of it:

> We understand that it has been tentatively decided to include in the year-end omnibus spending bill a provision substantially repealing the 1986 military pension reforms. We urge you in the strongest possible terms to reject this unwise, expensive, and untimely provision.

They also said:

> Several commissions reported that the old pension system was so generous to personnel in their early 40s with 20 years of service that the pensions worked as incentives to highly skilled personnel to leave the military. One of the objectives of this bill is to get people to stay in the military.

They also say:

> Rolling back the 1986 reforms means returning to a system that encourages military personnel to retire prematurely from the service in their early 40s at half pay, augmented by full COLAs.

Mr. President, I ask unanimous consent to have this entire letter printed in the RECORD.

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

THE CONCORD COALITION,
Washington, DC, October 14, 1998.

SAY NO TO REPEALING MILITARY PENSION REFORMS

DEAR COLLEAGUE: We understand that it has been tentatively decided to include in the year-end omnibus spending bill a provision substantially repealing the 1986 military pension reforms. We urge you in the strongest possible terms to reject this unwise, expensive, and untimely provision.

Both of us believe unequivocally in a strong defense and a responsible fiscal policy. Repealing the 1986 military pension reforms will produce neither: it will weaken readiness by taking funds away from more critical defense needs, and it will also create serious budget problems.

This provision is terrible fiscal policy both near term and long term. In the near term, the provision requires appropriating $7.3 billion over the coming decade to pay the ''employers' share'' (the accrual cost) of increasing military pensions down the road. This $7.3 billion will have to be squeezed out of the very tight level of appropriations allowed under he 1997 discretionary caps. Remember, these caps are already set to tighten spending by about 10 percent in real terms between now and 2002, so finding $7.3 billion will mean stinting on other priorities.

In the long term, by rolling back the 1986 reforms, the provisions eventually would expand the stream of future entitlements by about $8 billion a year. It would affect only service personnel who joined the military after 1986, so its full impact on pension payments would not be felt for several decades.

The 1986 reforms were designed and approved on a bipartisan basis after several years of study and hearings. They reined in excessive costs and overhauled outdated aspects of the pension system. They should not be lightly tossed aside in a last minute omnibus spending bill. If changes of this magnitude are to be made, they should be done only after full consideration by the appropriate committees and full and informed debate by the House and Senate.

Prior to passage of these reforms many experts, including the Pentagon's own Quadrennial Review of Military Compensation, called for change. Former Defense Secretary Les Aspin noted that under the old system most military pension benefits went to people were still working outside the military and were not ''retired'' in the conventional sense.

Several commissions reported that the old pension system was so generous to personnel in their early 40s with 20 years of service that the pensions worked as incentives to highly skilled personnel to leave the military. With the current need for critical skills in the military, it is absurd to encourage unskilled personnel to retire in their early 40s. Returning to the old system would reduce—not strengthen—the willingness of personnel

to remain in the service and therefore, in our opinion, it would reduce retention rates and military readiness. Indeed, there are far better ways the same appropriations dollars could be used that would improve readiness and retention rates.

This provision in no way affects former military personnel who are retired today, or even active duty personnel who joined the service before August, 1986.

Only those who were inducted after July 31, 1986 will be affected. But changing the ground rules mid-stream for them calls into question whether any prospective changes in Social Security or other entitlement programs can ever be credible. Prospective changes are purposely adopted in order to soften the adjustment and give individuals time to plan ahead. But if such significant changes as the 1986 military retirement reforms are rolled back before they even have an impact, why should citizens believe that other prospective entitlement reforms actually will come to pass and make their plans accordingly?

Rolling back the 1986 reforms means returning to a system that encourages military personnel to retire prematurely from the service in their early 40s at half pay, augmented by full COLAs. Why not also roll back the 1984 reforms of the Civil Service pension plan? Is this fair to DoD civilian personnel or other government employees?

At a time when our nation is preparing for the fiscal challenges of an aging population by debating the tough choices involved in Social Security and Medicare reform we can ill afford to undo one of the few tough choices about long-term spending that already has been made.

The 1986 reforms made sense then and still make sense today. But if Congress wishes to reexamine the issue, or to direct appropriations in a way that would change military compensation or increase readiness, it should do so with proper debate and consideration, not through an ill-conceived provision slipped into a mammoth year-end spending bill with little consideration by the House or Senate.

Additional information and background on this issue is available in the entitlement reform section of the Concord Coalition web site at ''http://www.concordcoalition.org''.

Sincerely,

WARREN B. RUDMAN,
Co-Chair.
SAM NUNN,
Co-Chair.

Mr. NICKLES. Mr. President, I think the pension change—which, I might mention, is an entitlement change—is not paid for in this bill and it costs $14 billion over the next 10 years. So it is not an insignificant provision. There are also provisions in here dealing with a thrift savings plan. I am in favor of that. I don't have a problem with that. We should encourage that for military personnel. Most provisions in here I agree with and some I disagree with. I think changing the retirement percentage is a mistake.

There is another provision in the bill that Senator CLELAND, I think, was talking about. I compliment him. He was able to get this in the bill in the markup. I don't believe they had cost estimates and actually knew how much it would cost during the markup, but it was a provision dealing with the GI bill, providing benefits, educational benefits for GIs. He expanded the benefit to say it could be transferred to spouses and children. What does this mean? The bill itself increases the GI benefit from $528 a month to $600 a month, a nice, generous increase. That means a GI that is in the regular service with a commitment for 3 years can sign up and receive educational benefits totaling $600 per month—a pretty nice benefit. That is $7,200 per year.

This bill is used by a significant number of GIs. This bill eliminates the coshare. They have to pay, right now, $100 a month, or for the first year $1,200. This bill eliminates that. I am not arguing about that as much as I am about the transferability provision in this bill that allows the GI benefits to be transferred to spouses, and also to the kids.

I am all in favor of increasing support for our military, but I question the wisdom of this provision, which is enormously expensive. Enormously. The cost of this provision over the next 10 years—just the transfer of the GI entitlement—is $9.8 billion. Also, I might mention that in the CBO study, the last part of the page, they talk about the transfer of entitlement, and they said:

CBO estimates that the provision would raise costs by about $110 billion in 2000 and by $2.2 billion over the first 5 years, and $9.8 billion over the 2000 to 2009 period. In the long run, costs will rise to about $3 billion per year.

This is just in the transfer of an entitlement. So this is the creation of a new entitlement, transferring this entitlement to spouses and the kids. This $600, which I believe is indexed for inflation, can get very expensive. So we are talking about a $7,200 benefit being transferred to spouses and kids, and 10 years from now how much will that be? Well, the Congressional Budget Office says it is going to cost about $3 billion a year. I know that cost wasn't known—or at least I don't think it was—when this bill was marked up. We know what the cost is now. I think we have to look at it long and hard.

Is this the right thing to do? Some people have said this doesn't come out of the defense budget, this is not part of the defense bill, this is really part of Veterans Affairs budget. It comes out of the taxpayer bill. I want to take care of veterans, too, but I don't think we have an obligation to veterans' children, to be providing for their education to the tune of $7,200. I think we have to be very cautious when we go about expanding entitlements. Maybe I am alone in this, but these entitlement increases aren't paid for. So there is a real conflict.

Most of us say we believe in a balanced budget. We run back to our States and say we have balanced the budget and we have done a great job. Yet, increasing entitlements to the tune of increasing the percentage from 40 to 50 percent for military retirement, and then also making the GI bill benefits apply not only for GIs, but also for GIs' spouses and for children.

I think that is enormously expensive—very expensive. The cost of this bill over the first 5 years is $17.9 billion. The cost over 10 years is $54.9 billion—almost $55 billion over 10 years. About half of that is pay raise. I don't have a problem with the pay raise provision, with one exception. The pay raise provision that is put in says not only a 4.8 pay raise, which is the most generous that we have done in a long time, and it is probably overdue, but it also says for the foreseeable future we are going to add another half point over whatever the cost-of-living index will be for the military over everybody else. I am not sure we should be making that decision for 10 years from now, or for 8 years from now. The next Congress can decide that. Maybe we should say, ''Well, for the next 4 years we will give a half point incremental increase on top of the CPI.'' I don't think we should say for every military person you will get half a percent more than everybody else. And then we are going to have pressure coming from the civil service, and from all governmental employees saying we want just as much, although we have had some studies done that say they are not making as much as those in the private sector.

I think that provision can be very expensive, or certainly should be sunset or limited. So I encourage the managers of this bill to look at putting the sunset on the incremental cost-of-living increase that is now provided. I urge them to take another look at raising the retirement percentage from 40 to 50 percent. I urge in the strongest language possible to be very, very cautious about expanding the GI bill of rights to spouses and to their children.

If we are going to pass entitlement programs that cost $3 billion a year, we should know it. We should recognize the cost. We should also be thinking about what the spending is going to squeeze out—what area of the military is going to take a hit, or what area of Veterans Affairs. Are we not going to be able to fund veterans' health care as well because that particular provision is in there?

So I think we need to think about it long and hard. I am confident that our colleagues, who will be managing this bill in conference, will look at these issues. I am very hopeful they will be addressed before we see a bill brought back to the Senate floor as a conference bill.

Mr. President, I yield the floor.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 4—Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999

Summary: S. 4 would increase various elements of compensation for current and former members of the armed forces. Specifically, it would increase pay for military personnel, provide a special allowance for low-income members, increase retirement benefits for certain members, increase educational benefits, and allow members on active duty to participate in the Thrift Savings Plan.

Assuming appropriation of the necessary amounts, enactment of the bill would raise discretionary spending by about $1.1 billion

in 2000 and $13.8 billion over the 2000–2004 period. In 2009, those costs would total about $6.5 billion. Because the increase in retirement benefits would apply only to members who entered the service after July 1986, annual costs would continue to rise for a few years after 2009. Additional benefits earned under the proposal between August 1, 1986, and the effective date would add about $4.5 billion to the unfunded liability of the military retirement trust fund.

Because the bill would affect direct spending and revenues, pay-as-you-go procedures would apply. Increased educational benefits and higher annuities for certain military retirees would increase direct spending by about $765 million a year over the 2000–2004 period. In 2009 direct spending costs would total about $2.6 billion. The annual direct spending costs for military retirement would eventually be about 11 percent higher than spending under current law. Greater use of education benefits under the bill would raise long-run costs by about $3 billion a year. By allowing servicemembers to participate in the Thrift Savings Plan, the bill would lower revenues by $311 over the 2000–2004 period and about $141 million by 2009. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the national security. That exclusion might apply to the provisions of this bill. In any case, the bill contains no intergovernmental or private-sector mandates.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 4 is shown in Table 1, assuming that the bill will be enacted by October 1, 1999. Spending from the bill would fall, under budget functions 700 (veteran's benefits and services), 050 (national defense), and 600 (income security).

TABLE 1.—ESTIMATED COSTS OF S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal years, in millions of dollars]

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DIRECT SPENDING AND REVENUES										
Proposed Changes:										
Estimated Budget Authority	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Estimated Outlays	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Revenues	−10	−44	−67	−86	−103	−113	−120	−127	−134	−141
SPENDING SUBJECT TO APPROPRIATIONS										
Proposed Changes:										
Estimated Authorization Level	1,089	2,196	3,118	3,505	3,980	4,373	4,852	5,422	5,952	6,548
Estimated Outlays	1,075	2,164	3,103	3,487	3,963	4,354	4,832	5,400	5,928	6,520

Basis of estimate: The budgetary impact of the bill would stem from three sets of provisions: those affecting military retirement programs, pay of current members, and veterans' education. Table 2 shows the costs of provisions affecting military pay and retirement benefits that would raise direct spending, lower revenues, and raise discretionary costs to the Department of Defense (DoD). Table 3 shows the increases in direct spending that would result from provisions raising veterans' education benefits.

TABLE 2.—ESTIMATED COSTS OF PROVISIONS AFFECTING MILITARY COMPENSATION IN S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED FORCES

[Outlays by fiscal years, in millions of dollars]

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION											
Spending Under Current Law for Military Personnel [1]	70,367	73,005	68,472	70,590	70,633	70,633	73,033	70,633	68,233	70,633	70,633
Proposed Changes:											
Retirement Benefits	0	674	862	1,437	1,453	1,541	1,550	1,597	1,709	1,760	1,767
Retention Initiative	0	2	7	15	23	28	31	33	35	37	39
Pay Increases	0	386	1,269	1,625	1,985	2,368	2,773	3,202	3,656	4,131	4,714
Subsistence Allowance	0	13	26	26	26	26	0	0	0	0	0
Subtotal	0	1,075	2,164	3,103	3,487	3,963	4,354	4,832	5,400	5,928	6,520
Spending Under S. 4 for Military Personnel [1]	70,367	74,080	70,636	73,693	74,120	74,596	77,387	75,465	73,633	76,561	77,153
DIRECT SPENDING											
Retirement Annuities											
Spending Under Current Law	31,935	32,884	33,887	34,871	35,956	37,026	38,125	39,233	40,360	41,500	42,657
Proposed Changes	0	1	1	2	2	3	3	5	25	66	125
Spending Under S. 4	31,935	32,885	33,888	34,873	35,958	37,029	38,128	39,238	40,385	41,566	42,782
Food Stamps											
Spending Under Current Law	20,730	21,399	22,431	23,251	23,913	24,629	25,303	26,005	26,715	27,426	28,152
Proposed Changes	0	−3	−5	−5	−5	−5	0	0	0	0	0
Spending Under S. 4	20,730	21,396	22,426	23,246	23,908	24,624	25,303	26,005	26,715	27,426	28,152
REVENUES											
Thrift Savings Plan	0	−10	−44	−67	−86	−103	−113	−120	−127	−134	−141

[1] The 1999 level is the estimated spending from amounts appropriated for 1999 and prior years. The current law amounts for 2000–2009 assume that appropriations remain at the 1999 level. If they are adjusted for inflation, the base amounts would rise by about $2,500 million per year, but the estimated changes would remain as shown.

Sources: Congressional Budget Office and Joint Committee on Taxation.

Retirement benefits

S. 4 contains provisions that would allow current members to participate in the Thrift Savings Plan and increase retirement benefits for members who entered the service after July 31, 1986, and are covered under the system known as REDUX.

Background. The Military Retirement Reform Act of 1986 (REDUX) governs the retirement of military personnel who initially entered the armed forces after July 31, 1986. Under REDUX a retiree's intial annuity ranges from 40 percent to 75 percent of the individual's highest three years of basic pay. Retirees with 20 years of service will receive 40 percent, and the fraction will grow with each additional year of service and reach the maximum at 30 years of service. When the retiree is 62 years old, the annuity is raised in most cases to equal 2.5 percent of the average of the highest 36 months of basic pay for each year of service up to a maximum of 75 percent. Also, under REDUX cost-of-living adjustments (COLAs) equal the change in the Consumer Price Index (CPI) less 1 percentage point. However, when the retiree reaches age 62 the annuity is raised to reflect all of the CPI growth until that point, but thereafter annual COLAs continue to equal the CPI less one percentage point.

Current law provides two different formulas for other individuals who become eligible for a nondisability retirement benefit but are not covered by REDUX. Military personnel who first became members of the armed forces before September 8, 1980, receive retired pay equal to a multiple of their highest amount of basic pay; the multiple is 2.5 percent for every year of service up to 75 percent. Retirees who first became members of the armed forces between September 8, 1980, and July 31, 1986, receive retired pay based on the average of the highest 36 months of basic pay and the multiplier of 2.5 percent for each year of service. Annuities for both of these groups are fully adjusted for changes in the CPI.

Repeal of REDUX/Optional Lump-Sum Bonus. Under section 201, members who under current law would retire under REDUX would face a choice upon reaching 15 years of service. They could elect to receive a lump-sum bonus of $30,000 and retire under the REDUX plan or they could forgo that payment and upon retirement receive annuities under the plan in effect for retirees who first became members of the armed forces between September 8, 1980, and July 31, 1986. CBO estimates that total costs to DoD under the provision would total about $674 million in 2000 and average about $1.4 billion a year through 2009.

Accrual Costs. Prior to 2009 the primary budgetary impact would stem from the payments that DoD would make to the military retirement trust fund. The military retirement system is financed in part by payments

from appropriated funds to the military retirement trust fund based on an estimate of the system's accruing liabilities. Repealing REDUX would increase payments from the military personnel accounts to the military retirement fund (a DoD outlay in budget function 050) to finance the increased liability to the fund resulting from additional years of service under a more generous system.

CBO estimates that the resulting increase in discretionary spending from the accrual payments would average about $0.8 billion by 2004 and about $1.0 billion over the next 10 years. The costs to DoD would increase each year because not all military personnel are covered by REDUX. Under current law the percentage of the force covered by REDUX will grow until everyone in the force will have entered military service after July 31, 1986.

Accrual costs depend on many factors, including endstrengths, projected years of service at the time of retirement, grade structure or salary history, and projected rates of military pay raises, inflation, and interest rates. CBO's assumptions are consistent with the ones used recently by DoD's actuaries. The estimates also assume that in the long run annual pay raises are 4.0 percent, changes in the CPI are 3.5 percent a year, and interest rates for the trust fund's holdings of Treasury securities are 6.5 percent annually. CBO's assumptions about how many individuals would choose lump-sum payments instead of a higher retirement annuity are explained in the following paragraph.

Lump-sum Payments. In addition, CBO estimates that DoD would spend about $500 million a year for the lump-sum payments, assuming that 50 percent of enlisted personnel and about 40 percent of officers would elect to receive the lower annuity in retirement. That estimate is based on DoD's experience under two buy-out programs in recent years. The Voluntary Separation Incentive (VSI) and the Special Separation Benefit (SSB) were two programs that DoD used extensively during the 1992–1996 period. VSI was a payment over a period of years, and SSB was a lump sum payment that had a lower present value than VSI. About 86 percent of enlisted personnel selected SSB, and about half of the officers did. Because the present value of forgoing the annuity reduction under REDUX is significantly greater than $30,000 and because that difference tends to be greater than the difference between VSI and SSB, CBO assumes that smaller fractions of officers and enlisted personnel would opt for the lump-sum payment than chose SSB. The members who would be affected by this provision entered service in 1986; thus, they would not be eligible for the lump-sum payment until 2001.

Direct Spending Under Section 201. Section 201 would also increase direct spending from the military retirement trust fund by $1 million in 2000 and by about $233 million over the 2000–2009 period. The outlay impact before 2006 is primarily due to higher cost-of-living allowances for individuals who receive a disability annuity. Starting in 2006 the impact is almost all due to regular retirements. In the long run, direct spending for military retirement would be about 11 percent higher than under current law.

Thrift Savings Plan. Section 202 would allow members of the uniformed services on active duty for a period of more than 30 days to participate in the Thrift Savings Plan (TSP). Contributions would be capped at 5.0 percent of basic pay plus any part of special or incentive pay that a member receives. The Joint Committee on Taxation estimates that the revenue loss caused by deferred income tax payment would total $10 million in 2000, $103 million in 2004, and about $141 million by 2009.

Special Retention Initiative. Under section 203, the Secretary of Defense could make additional contributions to TSP for military personnel in designated occupational specialties or as part of an agreement for an extended term of service. CBO estimates that the discretionary costs from the resulting agency contributions to TSP would total $2 million in 2000 and would increase to $28 million by 2004, based on DoD's use of similar authority to award bonuses for enlistment or reenlistment.

Compensation of military personnel

S. 4 contains two sets of provisions that would affect compensation for those currently serving in the military. One would increase annual pay raises and change the table governing pay according to grade and years of service. The other would increase compensation to members who would otherwise be eligible for food stamps.

Pay Increases. Section 101 and 102 contain provisions that would provide across-the-board and targeted pay raises. Across-the-board pay raises would be a total of 4.8 percent in 2000 and 0.5 percent above the Employment Cost Index (ECI) in future years. Because those raises would be 0.5 percent above the full ECI raise called for in current law, CBO estimates that incremental cost would be about $197 million in 2000 and average about $1.7 billion over the 200–2009 period. The estimate is based on current projections of military strength levels and its distribution by pay grade.

Additional pay raises would be targeted at personnel in specific grades and with certain years of service. The changes to the military pay table would increase basic pay by about $189 million in 2000 and an average of about $860 million annually over the 2000–2009 period, based on the pay schedule and pay raises specified in the bill as well as current projections of military strength levels and its distribution by pay grade.

Special Subsistence Allowance. Section 103 would create a new allowance through 2004 for military personnel who qualify for food stamps. Eligibility for the allowance would terminate if the member no longer qualified for food stamps due to promotions, pay increases, or transfer to a different duty station. In addition, a member would not be eligible for the allowance after receiving it for 12 consecutive months, although they would be able to reapply. CBO estimates that the allowance would increase personnel costs by roughly $13 million in 2000 and $26 million annually through 2004, based on information from DoD on the number of military personnel who currently receive food stamps.

CBO estimates that most of the 11,000 personnel in grades E–5 or below will remain on food stamps and apply for the special subsistence allowance. However, the additional $180 of monthly income would reduce the average household's monthly food stamp benefit by $54, resulting in savings of about $7 million each year in the Food Stamp program over the 2001–2004 period. The special subsistence allowance might also serve as an incentive for eligible but nonparticipating military personnel to apply for food stamps. CBO estimated that 1,500 additional service members would participate in the Food Stamp program in an average month at an annual cost of $2 million. Thus, this provision is estimated to result in a net savings to the Food Stamp program of $3 million in 2000 and $5 million each year over the 2001–2004 period.

Veterans' readjustment benefits

As shown in Table 3, the bill contains four provisions that would raise direct spending for veterans' readjustment benefits, specifically the Montgomery GI Bill (MGIB).

Rates of Assistance. Section 301 would raise the rate of educational assistance to certain veterans with service on active duty. Participating veterans who served at least three years on active duty would receive as much as $600 a month instead of $528 a month as under current law. Similar veterans with at least two years of active duty would be eligible for a maximum benefit of $488 a month, an increase of $59 dollars a month. Under section 301, the cost-of-living allowance scheduled for 2000 would not occur. CBO estimates that this provision would increase direct spending by over $100 million a year over the next 10 years, based on current rates of participation in this program.

Termination of Member Contributions. Section 302 would eliminate the contribution that MGIB participants pay under current law. Unless members elect not to participate in the MGIB, current law requires a contribution of $1,200 toward the program. Based on current rates of participation, which is nearly universal, CBO estimates that this provision would result in forgone receipts of about $195 million a year.

Accelerated Payments. Section 303 would permit veterans to receive a lump-sum payment for benefits they would receive monthly over the term of their training, for example, a semester in college or the period of a course's instruction for other forms of training. CBO estimates that this provision would increase direct spending in 2000 by about $134 million and by about $27 million in 2001. Increased costs would occur initially as payments from one fiscal year are made in the preceding year. There would be no net effect in subsequent years because in a given year payments shifted to the preceding year would be offset by payments shifted from the following year. CBO estimates that about 50 percent of MGIB beneficiaries would elect to receive an accelerated payment in 2000 and that a total of 60 percent would make that election in 2001 and later years. The estimate is also based on current rates of participation in this program.

TABLE 3.—ESTIMATED COSTS OF PROVISIONS AFFECTING VETERANS' READJUSTMENT BENEFITS IN S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[Outlays by fiscal years, in millions of dollars]

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DIRECT SPENDING											
Spending Under Current Law for Veterans' Readjustment Benefits	1,374	1,366	1,372	1,385	1,397	1,400	1,405	1,411	1,424	1,446	1,472
Proposed Changes:											
Rates of Assistance	0	98	100	101	103	104	105	106	108	110	113
Member Contributions	0	197	195	195	195	195	195	195	195	195	195
Accelerated payments	0	134	27	0	0	0	0	0	0	0	0

TABLE 3.—ESTIMATED COSTS OF PROVISIONS AFFECTING VETERANS' READJUSTMENT BENEFITS IN S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES—Continued

[Outlays by fiscal years, in millions of dollars]

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Transfer of Entitlement	0	110	281	577	592	630	805	1,129	1,612	1,899	2,200
Subtotal—Proposed Changes	0	539	603	873	890	929	1,105	1,430	1,915	2,204	2,508
Spending Under S. 4 for Veterans' Readjustment Benefits	1,374	1,905	1,975	2,258	2,287	2,329	2,510	2,841	3,339	3,650	3,980

Transfer of Entitlement. Section 304 would provide DoD with the authority to allow military personnel to transfer their entitlement to MGIB benefits to any combination of spouse and children. CBO expects that DoD would use the authority in 2000 to enhance recruiting and retention and that the benefit would be limited to current members of the armed forces and those who might join for the first time. Over the first five years almost all of the estimated costs would stem from transfers to spouses, who would tend to train on a part-time basis. Transfers to members' children are estimated to begin in 2004, and spending for children's education would account for more than half of the program's cost beginning in 2006. CBO estimates that the provision would raise costs by about $110 million in 2000, about $2.2 billion over the first five years, and about $9.8 billion over the 2000–2009 period. In the long run, costs would rise to about $3 billion a year. If the benefit were awarded to current veterans, CBO estimates that the costs would be a couple of billion dollars higher over the 2000–2009 period.

CBO assumes that about 35 percent of all MGIB participants would transfer their entitlement to their spouses and children. Currently, about half of all MGIB participants do not use their benefits, thus about 70 percent of the remaining half are expected to transfer it. CBO estimates that about a third of the transfers would be to spouses and that eventually about 200,000 spouses each year would receive a benefit for part-time training, averaging about $2,700 in fiscal year 2000. CBO estimates that in the long run over 500,000 children of members or former members would use the educational assistance each year but that level would not be reached until about 2013. Full-time students would receive about $5,400 in 2000 under the bill.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal years, in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Changes in receipts	0	−10	−44	−67	−86	−103	−113	−120	−127	−134	−141

Intergovernmental and private-sector impact: Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the national security. That exclusion might apply to the provisions of this bill. In any case, the bill contains no intergovernmental or private-sector mandates.

Previous CBO estimate: On September 28, 1998, CBO prepared a cost estimate for a proposal to repeal the Military Retirement Reform Act of 1986 (REDUX). This estimate relies on many of the same actuarial assumptions, models, and estimates from the Office of the Actuary at DoD that CBO used in the earlier estimate. However, this estimate also reflects the provisions of S. 4 that would offer certain members an option to stay under the REDUX system and that would raise the pay base applicable to computing the costs of military retirement.

Estimate prepared by: Federal Cost: The estimates for defense programs were prepared by Jeannette Deshong (military and civilian personnel) and Dawn Sauter (military retirement and veterans' benefits). Valerie Baxter prepared the estimates for food stamps. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: R. William Thomas.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. NICKLES. Mr. President, I ask unanimous consent to have the cost estimate table printed in the RECORD.

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

COST ESTIMATE FOR S. 4

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–2004	2000–2009
Spending subject to appropriation:												
Pay increases	386	1,269	1,625	1,985	2,368	2,773	3,202	3,656	4,131	4,714	7,633	26,109
Retirement benefits	674	862	1,437	1,453	1,541	1,550	1,597	1,709	1,760	1,767	5,967	14,350
Other	15	33	41	49	54	31	33	35	37	39	192	367
Total	1,075	2,164	3,103	3,487	3,963	4,354	4,832	5,400	5,928	6,520	13,792	40,826
Mandatory spending & reduced revenues:												
Transfer of GI Bill entitlement	110	281	577	592	630	805	1,129	1,612	1,899	2,200	2,190	9,835
Eliminate GI Bill benefits	197	195	195	195	195	195	195	195	195	195	977	1,952
Increase GI Bill benefits	98	100	101	103	104	105	106	108	110	113	506	1,048
TSP revenue reduction	10	44	67	86	103	113	120	127	134	141	310	945
Other	132	23	(3)	(3)	(2)	3	5	25	66	125	147	371
Total	547	643	937	973	1,030	1,221	1,555	2,067	2,404	2,774	4,130	14,151
Total new spending Authorization	1,622	2,807	4,040	4,460	4,993	5,575	6,387	7,467	8,332	9,294	17,922	54,977

Source: CBO.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, my colleague has acquainted me with his concerns from the very inception about this piece of legislation. In all fairness, he has spoken to us privately, and I think it is appropriate that his constructive criticism be shared with all Senators.

I simply say that this bill is in reaction to two hearings with the chairman of the committee and meetings with the members of the Joint Chiefs. We are trying to do our best.

Also, I think it is important from the historical standpoint to put in a letter from former Secretary of Defense, Caspar Weinberger, dated 15 November 1985, which addresses a number of the issues that my distinguished colleague covered.

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

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

THE SECRETARY OF DEFENSE,
Washington, DC, November 15, 1985.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The enclosed report complies with the requirements of section

667 of the Defense Authorization Act for fiscal year 1986.

Included in the report are drafts of the two pieces of legislation that would change the military non-disability retirement system. Each would result in a reduction in military retirement accrual funding of $2.9 billion in fiscal year 1986 as mandated by the Congress. This is a 16 percent reduction in military retired pay from the current system and is in addition to the 13 percent reduction that was imposed by the Congress in the high-three-year averaging adjustment in 1980.

Although the Department of Defense has prepared the draft legislation as required by the Congress, I want to make it absolutely clear that such action is not to be construed as support for either of the options for change. To the contrary, the Department of Defense is steadfastly opposed to the significant degradation in future combat readiness that would result from the changes required to achieve the mandated reduction. I am particularly concerned about the potential loss of mid-level officers, NCOs and Petty Officers who provide the first-line leadership and technical know-how so vital to the defense mission. Unless offsetting compensation is provided, our models conservatively indicate that our future manning levels in the 10 to 30 year portion of the force would drop below the dismal levels of the late 1970s when aviator shortages and shortfalls in Army NCO and Navy Petty Officer leadership seriously degraded our national security posture.

While the changes we have been required to submit technically affect only future entrants, we expect an insidious and immediate effect on the morale of the current force. No matter how the reduction is packaged, it communicates the same message, i.e., the perception that there is an erosion in support from the American people for the Service men and women whom we call upon to ensure our safety. It says in absolute terms that the unique, dangerous and vital sacrifices they routinely make are not worth the taxpayers' dollars they receive, which is not overly generous. I do not believe the majority of the American people support this view and ask that you consider this in your deliberations on this very crucial issue to our national security.

Sincerely,

CASPAR WEINBERGER.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before the Senator from Oklahoma leaves, let me commend him for his remarks. I have many of the same concerns that he has expressed. I have tried to figure out the best way to address those concerns. I did not see support for addressing those concerns on the Senate floor, frankly, and, therefore have not attempted to address some of the ones that he mentioned. I hope they can be addressed in conference. I will be speaking to that later on this afternoon and tomorrow, because, in fact, budget points of order lie to many of the matters which have been raised by the Senator from Oklahoma. Yet, we don't have the Budget Committee here raising those points of order that lie. We will be again exploring that in some depth later on this afternoon, and indicating that if this comes back from conference with the same unpaid-for benefits, then points of order would still lie. I hope if it happens that the Budget Committee folks would see fit to raise points of order to lie under the Budget Act against the benefits that are not paid for; and that, if not, I will surely consider raising a point of order. What the Senator from Oklahoma said—I think I might be joining in that kind of an effort.

I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

Mr. President, I have some remarks to make on the bill itself, and I would like to join in commending my good friend, Senator WARNER, for the leadership that he has already provided to raise America's attention to the status of our military, to the demands that are being placed upon it around the world, and the need to be able to recruit and retain the best quality American men and women in order to sustain those missions.

I am pleased that Senator WARNER and his committee, as well as the President, have sent forward proposals to assist us in dealing with this issue. I stand ready to support serious and responsible proposals. Also, I must, however, join in many of the comments that have just been made by our colleague from Oklahoma, Senator NICKLES, about specific components of this proposal which are troubling. But it is to a different set of issues that I want to direct my attention, and that is the issue of fiscal discipline in this legislation because I fear that this bill ignores the budgetary rules and principles of fiscal responsibility which we have relied upon to guide us to this first balanced budget that we have had in over 30 years.

I am concerned that as we take the action that is called for in this bill we would be reverting to a path of history which got this country into very serious trouble. It was in the early 1980s, Mr. President, that we had then a Republican in the White House and we had Democrats in control of the House of Representatives. Both parties decided that they wanted to support a tax cut for the American people. It was very popular. The result was that the Republican President and the Democratic House of Representatives got into a frenzy to see who could one-up the other in terms of the larger tax cut. And the consequence was that we had a tax cut which went beyond what either side had initially thought was prudent and which some 15 years later resulted in the United States having almost a $6 trillion deficit—a $6 trillion national debt.

I hear echoes of that 1980s debate here today as we have the President offering one set of proposals for significant enhancement in military compensation and pension and retirement, and now we have a Congress of another party outbidding the President in those same areas of compensation and pension and retirement. The echoes I hear today are not just from the early 1980s. They are from as recent as last October.

We will recall we adjourned, for all practical purposes, but still with a major piece of undone business in October of 1998, and that undone business was a substantial number of the appropriations bills which had not passed through the normal process of consideration in the two Houses, conference committees, and final vote and signature into law by the President. And so during the days of October when most of us were back in our home States, we had this gigantic, what Senator BYRD has referred to as a monstrosity of an appropriations bill, and inserted into that monstrosity was the most monstrous, in my opinion, of its provisions which was an emergency spending provision.

Emergency spending under the Budget Act has always been given special consideration because we are dealing with a narrow set of unexpected events that had traumatic adverse consequences on some of our people. It might be a flood or a hurricane or an earthquake or other type of disaster. The special provision of that emergency appropriation is unlike all other spending in the Federal Government; it didn't have to meet the rules of fiscal discipline. You didn't have to find an offset, another source of spending to reduce or a tax to increase to pay for emergency spending.

But we have been fairly disciplined in the use of that emergency appropriation provision, and it had served the Nation well until October of 1998 when out of this monstrous appropriations bill comes an emergency spending provision of almost $22 billion—$22 billion of emergency spending, a third to a half of it in items that had never been of the type that had warranted emergency spending designation. But when we came back here for a 1-day session in mid-October we were faced with the prospect of voting up or down on this monstrosity, including the emergency spending, or throwing the Government into fiscal chaos. And so reluctantly many of us, including myself, voted for that provision. We did a very serious error to our Nation's commitment to fiscal responsibility through that legislation and particularly through the emergency appropriation.

What concerns me, Mr. President, is that was the last act of the 105th Congress. Now what is about to be the first act after having completed our role as triers in an impeachment trial, what is our first legislative act of the 106th Congress? It is going to be to pass legislation that is even to a greater degree than that emergency appropriation an unfunded expenditure of the Federal Government. We are proposing to pass a bill which at the time it was introduced had slightly over $14 billion of unfunded direct outlays or reductions in receipts and which now by virtue of amendments adopted in the committee and on the floor has added another $2.5 billion of unfunded costs.

Mr. President, I would read from the report issued by the Congressional Budget Office to Chairman JOHN W. WARNER on February 12, 1999, on page 9

of the report, which I understand has been printed in the RECORD, the section called ''Pay-As-You-Go Considerations.'' I quote:

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following tables. For the purposes of enforcing pay as you go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

Mr. President, in that chart it indicates that as the bill was first considered in committee, there was $14.051 billion unfunded outlays or reductions in Federal receipts.

So we have legislation here which carries with it serious historical baggage, and we know exactly where that baggage took us in the 1980s. Frankly, Mr. President, we don't want to go back there again.

There is another consequence, and that is who is going to pay for this baggage in this legislation. It is said, well, we have a surplus now. Let's pay it out of the surplus. Well, the fact is the only surplus we have is the surplus which has been generated by the Social Security trust fund, a trust fund which is generating more in receipts than in outflows.

So, when we talk about paying for this through the surplus, let us understand that we are paying for this by a direct raid against the Social Security system, since it is only through Social Security that any surplus exists.

Mr. President, this is a terrible idea. To pass this legislation without paying for it is irresponsible. It is unfunded spending. It is a raid on Social Security. It is a clear path back to the out-of-control deficits and constant growth in our national debt that we have experienced for the last 20 to 30 years.

This bill is a test at the very beginning of the 106th Congress. Can we be trusted to save Social Security? Can we be trusted to manage, with discipline, the surplus that we have? Are we going to spend every cent that we can get our hands on, and do it in a way that risks the future of Social Security?

This bill violates the very principles of fiscal responsibility that were created to achieve the balanced budget at which we have now so late arrived. Where is the fiscal discipline? Why are we violating the pay-as-you-go principle, which the Congressional Budget Office has so clearly indicated we are—this principle that has kept us in line and allowed us to achieve a balanced budget? Why are we spending the Social Security surplus before we save Social Security first?

The mantra of 1998 was ''Save Social Security First,'' and we understood that what that meant was that we were committed to secure the Social Security system for three generations, so that some of the young people who have just joined us in the gallery, when they get ready to retire, they would have a Social Security system. Why have we so quickly moved away from the principle of a secure Social Security system to the year 2075 before we spend any of the Social Security surplus? Why did we violate that principle in October of 1998? Why are we about to violate that principle again in February of 1999?

We have heard some things about the surplus. We have heard that over the next 15 years we are going to have a surplus of approximately $4.7 trillion, and we have heard that surplus is roughly 62 percent made up of Social Security surpluses, 38 percent made up of general revenue.

Let me tell you a couple of things about those numbers that maybe we have not fully appreciated. First, the $4.7 trillion depends upon a whole set of economic assumptions holding up for 15 years. I would like you to test your confidence in that by going back to the year 1984, and seeing what the projections were to the year 1999 and then test how accurate those projections were.

We have some considerable confidence in the general range of the Social Security surpluses because they are based on a percentage of payroll tax; they are based on outlays to a fairly known and predictable group of American beneficiaries of Social Security. It is the non-Social Security side of the surplus that is the question mark. What we are doing, by spending the Social Security-generated surplus now, is asking every current and future Social Security beneficiary to be willing to take the risk that those estimates of what the general revenue surplus will be 10, 12, 15 years from now will prove out to be accurate. That is a risk that I am not prepared to ask current and future Social Security beneficiaries to assume.

There is a second aspect about those numbers. There is an assumption that this division of 62 percent/38 percent is a fairly consistent allocation. Wrong. If we divide the 15-year period over which this projection has been made into three 5-year components, here is what we find out: In the first 5 years, from 1999 to the year 2003, depending on whether you are using CBO numbers or Treasury estimates, between 90 and 97 percent of that surplus is Social Security—90 to 97 percent in the next 5 years is going to come exclusively from Social Security.

In the next 5 years, from 2004 to 2008, approximately two-thirds of the surplus will be from Social Security. It is only when you get in the years past the year 2009 that Social Security becomes less than half of the source of the surplus. And that occurs largely because, in the year 2013, Social Security goes negative; that is, annual receipts will be less than the annual outlays.

What we are proposing now is, in the very first year, when more than 100 percent of the surplus is Social Security—and that is because we are still running a deficit in our general revenue accounts—we are going to start drawing this surplus down. Just as we did in October of 1998 to pay for non-emergency emergencies, we are now going to be doing it to pay for this unfunded compensation package.

Mr. President, I think there is a responsible thing to do, and that responsible thing to do is to pay for it. If this is an important national issue, if the security of our country is at risk because of deficient compensation, we should recognize that fact. We should not ask our grandparents to pay for it by reducing Social Security; we should all be prepared to pay for it.

Mr. President, it is my intent to offer an amendment which will cover the original unfunded amount of this legislation and the unfunded components that have been added by amendment in committee, and now on the floor. I believe those numbers come to approximately $16.5 billion. I have asked the staff to confirm that those numbers are correct. If they are correct, I will offer an amendment which has three provisions—two of them are extensions of excise taxes which have now lapsed. They are primarily in the Superfund area. And the third is a tax provision which was offered and adopted by Senator COVERDELL, as part of other legislation during the 105th Congress, and relates to the taxation of foreign source income.

Those three provisions would produce the amount of revenue necessary to cover the $16.5 billion over the next 10 years of the unfunded component of this legislation. Once I have verified the correctness of the numbers, I will submit that amendment.

Mr. President, this will give us an opportunity to be responsible in two ways. We would be responsible to our national security by providing the kind of compensation program that would attract and retain the quality Americans that we need in order to defend our Nation and advance our national interests around the world. We would be responsible to this and future generations of Americans by saying we will pay for these costs, not ask that they be added to the already enormous credit card debt that our grandchildren are eventually going to have to be paying as a result of the previous absence of discipline.

So, we have an opportunity to redeem ourselves, and as the first act of the 106th Congress, not to set an example of wasteful lack of discipline, but, rather, of fiscal maturity, of fiscal responsibility, which I believe will be very well received by all of our fellow Americans.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent to allow Mr. Erik Lieberman and Ms. Rebecca Schwalbach to have the privilege of the floor during the pendency of this bill.

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

Mr. ROTH. Mr. President, parliamentary inquiry. Has the distinguished

Senator from Florida sent his amendment to the desk?

The PRESIDING OFFICER. The Senator has not sent an amendment to the desk.

Mr. GRAHAM. Mr. President, if I may?

Mr. Chairman, it is my intention, as soon as we verify the additional unfunded amendments which we have in committee and on the floor, and therefore have a total of the extent of unfunded outlays under S. 4, to then offer an amendment which will be sufficient to cover the full extent of those unfunded items. I have not yet sent up that amendment.

Mr. ROTH. My understanding is you have not yet sent the amendment to the desk.

Mr. GRAHAM. I have not yet sent up that amendment.

AMENDMENT NO. 27

(Purpose: To amend title 38, United States Code, to expand the list of diseases presumed to be service-connected with respect to radiation-exposed veterans)

Mr. WELLSTONE. Mr. President, I would like to speak about an amendment that I will offer soon. I do so for purposes of moving our deliberations forward in the U.S. Senate. This amendment is identical—although I may make some changes if we are able to reach a compromise—but in its present form, it is identical to S. 1385, the Justice for Atomic Veterans Act, which I introduced in the 105th Congress. An amended version of this bill was reported out of the Veterans' Affairs Committee on July 28, 1998.

This amendment would remove some of the frustrating and infuriating obstacles that have too often kept veterans who were exposed to radiation during military service from getting the disability compensation they deserve. My amendment clears the way for these veterans by adding some radiogenic diseases—we are now negotiating which ones—to the list of diseases that are presumed service-connected. This is, colleagues, the only solution. It is the only way of ensuring that ''atomic veterans'' have any realistic chance of proving their disability claims. And our treatment of atomic veterans is, Mr. President, a long and sad and shameful history in our country.

Why am I offering this amendment now? The rationale for S. 4 is to recruit young people for service in the military, and retain them by enhancing pay, retirement, and educational benefits.

I hope my colleagues will agree that potential recruits may be influenced by more than just the pay and the benefits. Senator CLELAND's committee amendment certainly recognizes that one important factor in recruitment and retention is the way we treat our veterans after they leave the service.

I very much agree that the way we treat our veterans does send an important message to young people considering service in the military. When veterans of the Persian Gulf war do not get the kind of treatment they deserve, when the VA budget, year after year, does not give veterans a stable source of funding for VA health care, when veterans' benefits claims take years and years to resolve—so people are waiting 3 years for compensation—the message that we are sending to prospective recruits is not a very encouraging one.

Making sure we treat veterans right is, in fact, the philosophy behind the Rockefeller amendment. How can we attract and retain young people in the service when our Government fails to honor its obligation to provide just compensation and health care for those injured during service?

One of the most outrageous examples of our Government's failure to honor its obligation to veterans involves the atomic veterans, patriotic Americans who were exposed to radiation at Hiroshima and Nagasaki and at atmospheric nuclear tests.

I want to say this to colleagues. Before you consider tabling the amendment—and I hope you do not—and before you consider your vote, please examine this history with me. For more than 50 years, many of these atomic veterans have been denied compensation for diseases that the VA recognizes as being linked to their exposure to radiation—diseases known as radiogenic diseases. Many of these diseases are lethal forms of cancer.

I received my first introduction to the plight of atomic veterans—and there is no issue I feel more strongly about as a Senator—from some first-rate mentors, the members of the Forgotten 216th. The Forgotten 216th was the 216th Chemical Service Company of the U.S. Army which participated in Operation Tumbler Snapper. Operation Tumbler Snapper was a series of eight atmospheric nuclear weapons tests in the Nevada desert in 1952.

About half of the members of the Forgotten 216th were Minnesotans. What have I learned from them and from other atomic veterans? What have I learned from their survivors? And how has this shaped my views as a U.S. Senator?

Five years ago, the Forgotten 216th contacted me after then-Secretary of Energy Hazel O'Leary announced that the U.S. Government had conducted radiation experiments on its own citizens. And for the first time in public, these veterans revealed what happened to them in Nevada during the tests and the tragedies and the traumas that they, their families, and their former buddies have experienced since then.

Because their experiences and problems typify those of atomic veterans nationwide, I would like to tell my colleagues a little more about the Forgotten 216th. In fact, I am proud to talk about them on the floor of the U.S. Senate. I am pleased to take up some time talking about these atomic veterans. When you hear their story, I think you will agree that the Forgotten 216th and other veterans like them must never be forgotten again.

Members of the 216th were sent to measure fallout at or near ground zero immediately after nuclear blasts in Nevada. They were exposed to so much radiation that their Geiger counters went off the scale while they inhaled and ingested radioactive particles. They were given minimal or no protection by the Government. They frequently had no film badges to measure radiation exposure. They were given no information on the perils they faced. And now, 50 years later, we say we don't have the money to provide them compensation.

After all this, they were sworn to secrecy about their participation in the nuclear tests. They were often denied access to their own service medical records and they were provided no medical follow-up.

For decades, atomic veterans have been America's most neglected veterans. They have been deceived and treated shabbily by the Government they so selflessly and unquestioningly served.

If the U.S. Government can't be counted on to honor its obligation to these deserving veterans, and that is what this amendment is about, how can young people interested in military service have any confidence the Government will do any better by them? If we don't finally provide compensation to these veterans, what does that tell young people who are thinking about serving in the armed services?

Mr. President, I believe that the neglect of the atomic veterans should stop here and now. Our Government has a long overdue debt to these patriotic Americans, a debt that we in the Senate can help to repay. And we can repay it now. I urge my colleagues on both sides of the aisle to help repay this debt by supporting this amendment.

This legislation and this amendment have enjoyed the strong support of veterans service organizations. Both the American Legion and the Disabled American Veterans, DAV, provided strong letters of support to the Senate Veterans' Affairs Committee for its April 1998 hearing. They have also written letters of support for this legislation.

Recently, the Independent Budget for fiscal year 2000, which is the budget recommendation issued by AMVETS, DAV, PVA, and the Veterans of Foreign Wars, endorsed adding these radiogenic diseases to the VA's presumptive service-connected list. I ask unanimous consent that at the conclusion of my statement, the American Legion and the DAV letters of support and the relevant excerpt from the fiscal year 2000 Independent Budget be printed in the RECORD.

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

(See Exhibit 1.)

Mr. WELLSTONE. Let me briefly describe the problem that my amendment is intended to address. When atomic

veterans try to claim VA compensation for their illness—this is the problem—the VA almost invariably denies their claims. VA tells these veterans that the radiation doses were too low—below 5 rems. But the fact is, we don't really know that, and even if we did, that is no excuse for denying these claims.

The result of this unrealistic standard is that it is almost impossible for these atomic veterans to prove their case. The only solution is to add the conditions in my amendment to the VA presumptive service-connected list. That is what my amendment does. It covers a whole range of cancers that should be a part of these diseases. They should get compensation.

First of all, trying to go back and determine the precise dosage each of these veterans was exposed to is a futile undertaking. Scientists agree that the dose reconstruction performed by the VA is notoriously unreliable.

The General Accounting Office itself has noted the inherent uncertainties of dose reconstruction. Even the VA scientific personnel have conceded its unreliability. And in a memo to VA Secretary Togo West, VA Under Secretary for Health Ken Kizer—and I thank Dr. Kizer for his courage—has recommended that the VA reconsider its opposition to S. 1385, in part based upon the unreliability of dose reconstruction.

Mr. President I ask unanimous consent that the text of Dr. Kizer's memo be printed in the RECORD at the end of my remarks.

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

(See Exhibit 2.)

Mr. WELLSTONE. In addition, none of the scientific experts who testified at the Senate Veterans' Affairs Committee on S. 1385 on April 21, 1998, supported the use of dose reconstruction to determine eligibility for VA benefits.

Let me tell you why dose reconstruction is so difficult. Dr. Marty Gensler on my staff has researched this issue for over 5 years. This is what he has found.

Many atomic veterans were sent to ground zero immediately after a nuclear test with no protection, no information on the known dangers they faced, no badges or other monitoring equipment, and no medical follow up.

As early as 1946, ranking military and civilian personnel responsible for nuclear testing anticipated claims for service-connected disability and sought to ensure that—quote—no successful suits could be brought on account of radiological hazards. Unquote.

That quotation comes from documents declassified by the President's Advisory Committee on Human Radiation Experiments.

The VA, during this period, maintained classified records—quote—essential—unquote—to evaluating atomic veterans' claims, but these records were unavailable to veterans themselves.

Atomic veterans were sworn to secrecy and were denied access to their own service and medical records for many years, effectively barring pursuit of compensation claims.

It's partly as a result of these missing or incomplete records that so many people have doubts about the validity of dose reconstructions for atomic veterans, some of which are performed more than fifty years after exposure.

Even if these veteran's exposure was less than 5 rems, which is the standard used by VA, this standard is not based on uncontested science. In 1994, for example, GAO stated: ''A low level dose has been estimated to be somewhere below 10 rems [but] it is not known for certain whether doses below this level are detrimental to public health.''

Despite persistent doubts about VA's and DoD's dose reconstruction, and despite doubts about the science on which VA's 5 rem standard is based, these dose reconstructions are used to bar veterans from compensation for disabling radiogenic conditions.

The effects of this standard have been devastating. A little over two years ago the VA estimated that less than 50 claims for non-presumptive diseases had been approved out of over 18,000 radiation claims filed.

Atomic veterans might as well not even bother. Their chances of obtaining compensation are negligible.

It is impossible for many atomic veterans and their survivors to be given ''the benefit of the doubt'' by the VA while their claims hinges on the dubious accuracy and reliability of dose reconstruction and the health effect of exposure to low-level ionizing radiation remain uncertain.

This problem can be fixed. The reason atomic veterans have to go through this reconstruction at all is that the 10 diseases listed in my amendment are not presumed to be service-connected. That's the real problem.

VA already has a list of service-connected diseases that are presumed service-connected, but these 10 are not on it.

This makes no sense. Scientists agree that there is at least as strong a link between radiation exposure and these 10 diseases as there is to the other diseases on that VA list.

The President's Advisory Committee on Human Radiation Experiments agreed in 1995 that VA's current list should be expanded. The Committee cited concerns that ''the listing of diseases for which relief is automatically provided—the presumptive diseases provided for by the 1988 law—is incomplete and inadequate'' and that ''the standard of proof for those without presumptive disease is impossible to meet and, give the questionable condition of the exposure records retained by the government, inappropriate.'' The President's Advisory Committee urged Congress to address the concerns of atomic veterans and their families ''promptly.''

The unfair treatment of atomic veterans becomes especially clear when compared to both Agent Orange and Persian Gulf veterans. In recommending that the Administration support S. 1385, Under Secretary for Health Kenneth Kizer cited the indefensibility of denying presumptive service connection for atomic veterans in light of the presumption for Persian Gulf War veterans and Agent Orange veterans.

In 1993, the VA decided to make lung cancer presumptively service-connected for Agent Orange veterans. That decision was based on a National Academy of Sciences study that had found a link only where Agent Orange exposures were ''high and prolonged,'' but pointed out there was only a ''limited'' capability to determine individual exposures.

For atomic veterans, however, lung cancer continues to be non-presumptive. In short, the issue of exposure levels poses an almost insurmountable obstacle to approval of claim by atomic veterans, while the same problem is ignored for Agent Orange veterans.

Persian Gulf War veterans can receive compensation for symptoms, or illnesses that may be linked to their service in the Persian Gulf, at least until scientists reach definitive conclusions about the etiology of their health problems. Unfortunately, atomic veterans aren't given the same consideration or benefit of the doubt.

Mr. President, I believe this state of affairs is outrageous and unjust. The struggle of atomic veterans for justice has been long, hard, and frustrating. But these patriotic, dedicated and deserving veterans have persevered. My amendment would finally provide them the justice that they so much deserve.

Mr. President, I urge my colleagues from both sides of the aisle to join me in helping atomic veterans win their struggle by supporting my amendment.

EXHIBIT 1

THE AMERICAN LEGION,
Washington, DC, June 25, 1998.

DEAR SENATOR: The American Legion encourages you to cosponsor S. 1385, the Justice for Atomic Veterans Act of 1997, introduced by Senator Paul Wellstone.

The American Legion fully supports S. 1385. It grants the benefit of the doubt to sick and dying veterans of the cold war, and it rights the wrong of our government ignoring these veterans for so many decades.

The Department of Veterans Affairs (VA) and the United States General Accounting Office both admit that the radiation dose that veterans were exposed to when assigned to atomic weapon's tests is impossible to determine. Yet VA has granted only 80 disability compensation claims out of over 18,000 filed for service connected illnesses caused by radiation exposure. S. 1385 would reverse this trend.

Senator Wellstone's bill is short and simple. It adds to the list of diseases presumed to be service connected for radiation-exposed veterans. Under this bill, specific cancers and other diseases known to be caused by radiation exposure would become service connected for veterans exposed to radiation.

Thank you for your continued support of America's veterans and their families.

Please support and cosponsor S. 1385, the Justice for Atomic Veterans Act of 1997.

Sincerely,

JOHN F. SOMMER, Jr.,

Executive Director.

DISABLED AMERICAN VETERANS,
Washington, DC, February 22, 1999.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: I write you today regarding a matter of utmost importance to the more than one million members of the Disabled American Veterans (DAV), the expansion of the list of presumptive service-connected disabilities for atomic veterans. Last Congress, you introduced S. 1385, the ''Justice for Atomic Veterans Act,'' to expand the list of presumptive disabilities for atomic veterans. The DAV strongly supported the passage of this legislation.

It is our understanding that you intend to introduce an amendment on the Senate floor on February 23, 1999, to add ten radiogenic disabilities to the presumptive list, as originally contained in S. 1385. Again, the DAV strongly supports your efforts.

The DAV has a long-standing resolution calling for legislation to provide presumptive service connection to atomic veterans for all recognized radiogenic diseases. I have enclosed a copy of Resolution No. 006, passed by the delegates at our National Convention in Las Vegas, Nevada, August 23–27, 1998.

Your amendment would provide for a measure of fairness, equity and justice too long withheld from atomic veterans, their dependents and survivors. It is shameful that our Government has failed to adequately address the needs of atomic veterans, their families and survivors. Your amendment would correct that oversight.

We hope that your colleagues in the Senate will support this long overdue legislation. Thank you for your efforts on behalf of sick and disabled veterans.

Sincerely,

ANDREW A. KISTLER,
National Commander.

Enclosure.

RESOLUTION NO. 006—TO SUPPORT LEGISLATION AUTHORIZING PRESUMPTIVE SERVICE CONNECTION FOR ALL RADIOGENIC DISEASES

Whereas, members of the United States Armed Services have participated in test detonation of nuclear devices and served in Hiroshima or Nagasaki, Japan following the detonation of nuclear bombs; and

Whereas, the United States government knew or should have known of the potential harm to the health and well-being of these military members; and

Whereas, atomic veterans served their country with honor, courage, and devotion to duty; and

Whereas, remedial legislation passed by Congress in 1984 has not been effective in providing compensation to those atomic veterans suffering from radiogenic diseases; and

Whereas, by the VA's own admission, approximately no more than 50 claimants have obtained disability compensation or dependency indemnity compensation pursuant to Public Law 98–542; and

Whereas, the government has spent tens of millions of dollars to provide dose reconstruction estimates which do not accurately reflect actual radiation dose exposure; Now, therefore, be it

Resolved, That the Disabled American Veterans in National Convention assembled in Las Vegas, Nevada, August 23–27, 1998, supports legislation to provide presumptive service connection to atomic veterans for all recognized radiogenic diseases.

PRESUMPTION OF SERVICE CONNECTION FOR RADIATION-RELATED DISABILITIES

Despite scientific recognition that the diseases named under 38 C.F.R. §3.311 (1998) may be induced by ionizing radiation, VA almost invariably denies veterans' claims for service connection of such diseases, and legislation is therefore needed to create a statutory presumption of service connection for these ''radiogenic'' diseases.

In 1984, Congress enacted the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98–542, out of concern that deserving veterans were not receiving compensation for disabilities related to dioxin and radiation exposure. In accordance with that law, VA issued a regulation to govern the standards for determination of service connection for radiation-related disabilities. That regulation, what is now §3.311, includes special procedures for determining service connection for diseases recognized as radiogenic. Out of thousands of claims considered under these procedures, only a negligible number have been allowed.

The available records on levels of radiation exposure incredibly suggest that almost no members of the Armed Forces who participated in nuclear weapons testing or the occupation of Nagasaki or Hiroshima were exposed to levels of radiation sufficient to cause disease. These records are controversial and subject to widespread suspicion regarding their accuracy. Congress has partially remedied this unfair situation by enacting a statutory presumption of service connection for certain of these disabilities.

Under the presumption, these dubious exposure records and dose estimates for test participants and members of the occupation forces are not an impediment to service connection because Congress excluded the level of radiation exposure from consideration. Veterans with the same exposures, but whose radiogenic diseases are not included in the presumption statute, are still virtually certain to be denied compensation, however, on the basis that the level of radiation to which they were exposed was too low to be responsible for their disease.

The presumption statute, 38 U.S.C.A. §1112(c) (West 1991 & Supp. 1998), does not include the following diseases, although they are recognized as radiogenic: lung cancer; bone cancer; skin cancer; colon cancer; posterior subcapsular cataracts; nonmalignant thyroid nodular disease; ovarian cancer; parathyroid adenoma; tumors of the brain and central nervous system; and rectal cancer.

Accordingly, these radiogenic diseases should be included under §1112(c).

RECOMMENDATION

Congress should enact legislation to include in the statutory presumption for service connection of radiation-related disabilities lung cancer, bone cancer, skin cancer, colon cancer, posterior subcapsular cataracts, nonmalignant thyroid nodular disease, ovarian cancer, parathyroid adenoma, tumors of the brain and central nervous system, and rectal cancer.

EXHIBIT 2

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, April 21, 1998.

MEMORANDUM

From: Under Secretary for Health (10).

Subject: Request for reconsideration of the department's position on S. 1385 (Wellstone).

To: Secretary (00).

1. I request that you reconsider the Department's position on S. 1385 (Wellstone), which would add a number of conditions as presumptive service-connected conditions for atomic veterans to those already prescribed by law. I only learned that the Department was opposing this measure last night on reading the Department's prepare testimony for today's hearing; I had no input into that testimony. Indeed, my views on this bill have not been obtained. I would strongly support this bill as a matter of equity and fairness.

2. I do not think the Department's current opposition to S. 1385 is defensible in view of the Administration's position on presumed service-connection for Gulf War veterans, as well as its position on Agent Orange and Vietnam veterans.

3. While the scientific methodology that is the basis for adjudicating radiation exposure cases may be sound, the problem is that the exposure cannot be reliably determined for many individuals, and it never will be able to be determined in my judgment. Thus, no matter how good the method is, if the input is not valid then the determination will be suspect.

4. I ask that we formally reconsider and change the Department's position on S. 1385. I feel the proper and prudent position for the Department is to support S. 1385.

KENNETH W. KIZER, M.D., M.P.H.

Mr. WELLSTONE. Does my colleague from Virginia have a question?

Mr. WARNER. I think we are ready to clear the Senator's amendment if we can move along. We are anxious to get a unanimous consent so we can complete this bill. I don't want to cut the Senator off. He has my support.

Mr. WELLSTONE. Mr. President, I will tell you, I have been in the U.S. Senate now for 8 years, and I love to speak when it is an issue that is so important to me and so important to veterans. But if my colleagues are supporting my amendment, I thank them for their support.

Mr. WARNER. Would the Senator send that amendment to the desk so we can examine the final form? I have been involved in these issues for some years myself, and I am delighted to see he is helping these veterans.

Mr. WELLSTONE. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 27.

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

Mr. WARNER. We need to know, Mr. President, what is in the amendment.

The PRESIDING OFFICER. The clerk will continue reading.

The bill clerk continued with the reading, as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Bone cancer.

''(R) Skin cancer.

''(S) Colon cancer.

''(T) Posterior subcapsular cataracts.

''(U) Non-malignant thyroid nodular disease.

''(V) Ovarian cancer.

''(W) Parathyroid adenoma.

''(X) Tumors of the brain and central nervous system.

''(Y) Rectal cancer.''.

AMENDMENT NO. 27, AS MODIFIED

Mr. WELLSTONE. Mr. President, I see the confusion. I have the other amendment based upon what I think is in negotiation that we have had. Let's listen to that amendment.

Mr. WARNER. Does the Senator wish to substitute this amendment for the one that is at the desk?

Mr. WELLSTONE. I do. I thought I would see whether my colleagues were alert.

The PRESIDING OFFICER. Without objection, the amendment will be modified with the new amendment which has just been submitted to the desk.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The clerk will report the new amendment.

The bill clerk read the amendment (No. 27), as modified, as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Colon cancer.

''(R) Tumors of the brain and central nervous system.

Mr. WARNER. Mr. President, that amendment will be acceptable on both sides.

Mr. LEVIN. I want to commend the Senator from Minnesota for his tenacity in this and I congratulate him for the effort.

Mr. WARNER. I join my colleague, Senator LEVIN, likewise.

Mr. WELLSTONE. I thank the Senator.

Please help me get this done.

Mr. WARNER. Senator, we are going to make it happen.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 27), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I ask unanimous consent that Senator FRIST be added as a cosponsor to S. 4.

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

AMENDMENT NO. 28

(Purpose: To express the sense of the Senate that members of the uniformed services who are on duty outside the United States and privileged to an automatic 2-month extension of the deadline for filing tax returns should not be penalized by the Internal Revenue Service for using such extension)

Mr. WARNER. On behalf of Senator COVERDELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COVERDELL, for himself and Mr. MCCAIN, proposes an amendment numbered 28.

Mr. WARNER. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. SENSE OF THE SENATE REGARDING USE OF EXTENSION OF TIME TO FILE TAX RETURNS FOR MEMBERS OF UNIFORMED SERVICES ON DUTY ABROAD.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Service provides a 2-month extension of the deadline for filing tax returns for members of the uniformed services who are in an area outside the United States or the Commonwealth of Puerto Rico for a tour of duty which includes the date for filing tax returns;

(2) any taxpayer using this 2-month extension who owes additional tax must pay the tax on or before the regular filing deadline;

(3) those who use the 2-month extension and wait to pay the additional tax at the time of filing are charged interest from the regular filing deadline, and may also be required to pay a penalty; and

(4) it is fundamentally unfair to members of the uniformed services who make use of this extension to require them to pay penalties and interest on the additional tax owed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the 2-month extension of the deadline for filing tax returns for certain members of the uniformed services provided in Internal Revenue Service regulations should be codified; and

(2) eligible members of the uniformed services should be able to make use of the extension without accumulating interest or penalties.

Mr. COVERDELL. Mr. President, American soldiers in the modern military operate under a great deal of strain. Forced to work harder with fewer resources, our men and women in uniform bear a heavy burden defending our nation. This is especially true for those deployed overseas. Not only must these troops defend American interests, but they also live under constant threat of attack and must spend months away from their homes and their families.

In addition to their duty to protect our nation's security, American servicemen and women still must fulfill obligations back home, such as paying their taxes. However, in an incredible cart-before-the-horse scheme that could only be found in our nation's tax code, the federal government extends for our troops abroad the deadline for filing income tax forms by two months, but requires that servicemen and women still pay interest and penalties during the extension period. In other words, they must pay their tax bill before they are required to file their tax bill. Mr. President, this is unconscionable.

This sense of the Senate on uniformed services filing fairness, which I propose today with Senator MCCAIN, is simple. It puts the Senate on record calling for the codification of the current two-month extension period available to our uniformed personnel and for the elimination of the interest and penalties that would otherwise be charged. The Joint Committee on Taxation estimates the cost of this common-sense correction at just $4 million over ten years. Mr. President, how can we not afford to move forward on this matter?

We must show our nation's soldiers that we support them through concrete action. The amendment I introduce puts the Senate on the path toward making the lives of soldiers stationed overseas a little easier. I hope my colleagues will join me in this simple, inexpensive correction of an unfair tax law.

Mr. MCCAIN. Mr. President, I rise today in support of Senator COVERDELL's sense-of-the-Senate amendment to S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights expressing support for legislation to provide a two-month interest- and penalty-free extension to file Federal taxes for U.S. military personnel who are on duty abroad.

I recently supported this concept as an original cosponsor of S. 308, the Uniformed Services Filing Fairness Act, which provided a two-month interest- and penalty-free extension to file Federal taxes for U.S. military personnel who are on duty abroad. This simple fix to an isolated section of our overly complex tax code is very straightforward and would only cost $2 million over 5 years.

Current Treasury regulations allow military personnel to file Federal tax forms on June 15 rather than April 15. However, filers who elect to use this exception are still subject to interest and penalties during that two-month grace period.

S. 308 codifies the existing Treasury regulations and adds a waiver of the interest and penalties that could be charged during the two-month grace period against military personnel who elect to take the filing exception.

Military personnel serving their country overseas are often isolated from the resources necessary to prepare their tax returns. The Internal Revenue Service and the Department of the Treasury recognized this reality and provided our Nation's military personnel with a much-needed two-month grace period to file their taxes.

However, it is inconsistent to grant a grace period for filers, and then penalize those who take it. These brave men and women have not committed any wrongdoing; all they are doing is serving their country.

Travel to remove regions is inherent to military service. In 1998 alone, the United States had approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There were also 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 women and men deployed outside of the United States, away from their primary home, protecting and furthering the freedoms we Americans hold so dear.

We cannot afford to discourage military service by penalizing military personnel with interest and penalties merely because the unique characteristics of their job makes it difficult to file their taxes on time. Military service entails sacrifice, such as long periods of time away from friends and family and the constant threat of mobilization into hostile territory. We must not use the tax code to heap additional burdens upon our women and men in uniform.

S. 308 will restore equity and consistency to this tax provision, and, at the same time, provide a small measure of tax relief to our men and women in the military.

I urge my colleagues to join Senator COVERDELL, and myself to support this much-needed sense of the Senate amendment to S. 4, and to work to enact S. 308.

Mr. WARNER. It is my understanding that this is cleared on the other side.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side. I think there is broad support for this amendment. What it would do is to permit people who are overseas in contingencies to file late income tax returns. I think that is the only fair way to do it.

It is a sense-of-the-Senate resolution. I am proud to cosponsor this.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 28) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. 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. LEAHY. Mr. President, every Senator supports our men and women in uniform, and we all have heard the troubling retention and recruiting reports coming from the military. The Administration and Congress need to address these problems. Many items in this bill build on the President's initiative to improve compensation for our military personnel. The Armed Services Committee has added other provisions that will enhance our Nation's ability to attract and retain high-quality personnel.

However, it should concern us, just as it should concern our personnel in uniform, that this bill has not yet been provided for in the budget. The plain fact is that this bill is being considered at the wrong time. We should have waited until the Senate completed its annual work on a comprehensive budget framework. Social Security, Medicare, retirement of the national debt, discretionary spending and tax cuts are all issues that need to be considered at the time that we decide to commit billions to defense or any other spending program. This bill should have been considered in conjunction with the rest of the defense authorization bill, because under the currently structured budget caps, the new spending in this bill will have to be offset by other cuts in defense to pay for it, and this is an enormously expensive bill.

Much of this bill is warranted. I will vote for it because the effectiveness of our military depends on the quality of its personnel. This bill will improve the quality of our military, but with little regard for fiscal concerns. I hope that this does not become a trend in the 106th Congress and I expect the final concerns to be addressed in conference.

Mr. SHELBY. Mr. President, I rise today in support of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999.

The Joint Chiefs of Staff and many members of this body have expressed concern over the state of our military forces. One of the most serious problems identified by the Joint Chiefs is the recruitment and retention of dedicated and highly trained personnel. This legislation begins the process of rectifying that situation. Our Armed Forces must not only be able to fight and win on the battlefield, they must be able to compete for high quality personnel against robust private sector employers. I am proud to say that this bill gives our military a much more equitable chance to recruit and retain the best persons this country has to offer.

This legislation authorizes a significant and long overdue military pay raise. It enhances two long time staples of recruitment and retention; the military retirement system and the Montgomery G.I. bill. It authorizes a subsistence allowance for enlisted personnel so that no military member will be forced to live on food stamps. Finally, I am very pleased that this bill includes an authorization for military personnel to participate in a Thrift Savings Plan similar to the plans afforded other non-uniformed Federal employees.

Mr. President, the bill which I stand in support of today should be considered as a beginning. Congress has an explicit constitutional duty to see that the Armed Forces are equipped and maintained. Their unique task is daunting and at times life threatening. The Congress and this administration should not treat military service as just another job. This bill represents the Senate's view that the personnel of America's Armed Forces are worth a significant investment. I urge my colleagues to support this legislation.

To every member of our Armed Forces, whether afloat, ashore or airborne, wherever they are in the world, I say thank you and well done!

Ms. MIKULSKI. Mr. President: I am proud to support the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights. This legislation fulfills the promises made to the men and women of our armed forces.

Our men and women in uniform stand for everything that is good about our country—patriotism, courage, loyalty, duty and honor. They deserve our full support—not just with words but with actions.

I am alarmed about the problems of recruitment and retention facing our military. Improved pay and benefits are essential to recruiting and retaining the best people to serve our country. We are all concerned about the problems the services are having in meeting their recruitment goals. We're also troubled that so many of the highest skilled military choose to retire early.

This legislation will address these problems. By providing a 4.8 percent pay increase, we will help to close the gap between military and civilian pay. We will provide special incentives to those serving in critical specialties. We will also improve educational benefits and health care for our active military and retirees.

I am pleased that the Senate has amended this bill to improve benefits for the National Guard and Reserves. They are our nation's 911—always ready in time of emergency at home or abroad. They deserve recognition for their important role.

This bill also includes the Sarbanes/Warner/Mikulski amendment that puts the Senate on record on behalf of our federal employees. Our civilian workforce is essential—whether they work at our defense bases, at the National Institutes of Health or at any other federal facility. They have the same patriotism, honor and dedication as our military—and they can't be left behind on pay or benefits.

I share my colleagues concerns about the cost of this legislation. It will require tough choices and it may require some changes in conference. I hope that these issues will be considered in the context of our entire defense budget.

Mr. President, if we are to maintain the world's best military, we need to invest more in our most important national security resource—the men and women of our armed forces. This legislation will show that we support our American military—both with our words and our actions.

Mr. CRAIG: Mr. President, I would like to take this opportunity to speak about S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999.

For too long, Idahoans have been contacting me to express their concerns about quality-of-life issues for service members. I am pleased that this bill is a step to address some of the most urgent quality-of-life needs of the men and women in uniform, and their families. It contains a much needed pay raise, and reforms the current military pay tables. It also provides more options for retirement benefits, and increases educational benefits through changes to the Montgomery G.I. Bill. These quality-of-life improvement will help to ensure that we are able to recruit and retain the best personnel.

However, despite my support for this bill, it is important to keep in mind that this bill will do nothing to change one of the factors driving so many of the best and the brightest away from service. This legislation will not decrease the operational tempo of our troops.

In the last five years the President has sent U.S. forces abroad in major engagements some 50 times in comparison to 18 times during the Reagan Administration and 14 times during the Bush Administration. To exacerbate the problem, the number of men and women in uniform has been significantly reduced over the last decade. Simultaneously, the number of deployed missions has nearly quadrupled. Not only are U.S. soldiers forced a work longer and harder than ever before, they are also sent on deployment for longer period of time than before.

We continue to enforce the so-called ''peace'' in Bosnia, maintain a presence in Haiti, and in recent days President Clinton was virtually promised to deploy, on a moments notice, 4,000 soldiers again make peace in Kosovo.

Frankly, I find the Administration's eagerness to engage in non-traditional military missions such as humanitarian and peacekeeping endeavors not only a dangerous foreign policy proposition, but extremely detrimental to doing the very thing S. 4 is trying to accomplish—ensuring real quality-of-life for service men and women. I would be willing to bet that a number of soldiers might consider foregoing a pay raise if it meant that he or she wouldn't miss another Thanksgiving or Christmas away from home and loved-ones.

Let me close by saying, I am pleased that the Senate has made this important legislation the first item of business in the new session of Congress. I certainly believe that the young men and women of Idalho's 366th Wing at the Mountain Home Air Force Base deserve a raise, better retirement benefits, and better options for educational opportunities through the Montgomery GI Bill. However, the President must also carefully consider the impact of the current operational tempo on our troops, and work to better this tremendous impediment to true quality-of-life.

Mr. LAUTENBERG. Mr. President, I strongly support the goals of this legislation, to improve recruitment and retention rates. Those rates have sagged in the last year to 18 months, and we need to do something about that. After all, our nation's security depends on ensuring that the military is able to recruit and retain high quality personnel.

President Clinton agrees with that. He's proposing to increase the defense budget by $112 billion over 6 years, and he's allocated $35 billion to meet the challenges of recruitment and retirement. The President's budget provides an across-the-board pay raise of 4.4 percent, reforms the pay table to reward personnel for high performance, and modifies the current retirement system.

President Clinton is proposing these initiatives within a comprehensive and balanced plan that enhances troop readiness and increases the pace of our force's modernization. He also does it as part of a budget that reserves the surplus to shore up Social Security and Medicare, pays down the debt, and provides tax relief to average Americans.

S. 4, on the other hand, provides a more generous pay raise, more aggressively changes the military retirement system, creates a Thrift Savings Plan for military personnel, and increases GI bill benefits. Based on data from CBO staff, this bill will cost $7.5 billion more than the President's initiatives over the next 6 years, and $19 billion more over the next 10 years.

Mr. President, given my support for the underlying goals of this legislation, I'm reluctant to oppose it. But I do have real concerns about the way we're proceeding.

First, the Armed Services Committee hasn't held a single hearing to analyze the causes of the current recruitment and retention problems, or to evaluate remedies. Many argue that increasing pay and retirement benefits won't really solve the problem. GAO, CBO, and Rand are all conducting studies on these issues and are due to issue reports in the next few months.

In addition, the committee has failed to say where the additional funding will come from. If it comes out of other defense programs, Secretary Cohen fears we could end up compromising our troops' readiness and DOD's modernization program. If it comes out of other programs, what will that mean for programs like Social Security and Medicare?

Unfortunately, we're considering this legislation before the Budget Committee has even begun consideration of a budget resolution. And that's a mistake. In my view, before we approve any bill that commits ourselves to significant new spending, we need to reach agreement on a broader fiscal framework. We need to figure out how to save Social Security, strengthen Medicare, provide tax relief for ordinary Americans, and make needed commitments to education and other needs.

Mr. President, I understand that this legislation is not likely to move in the House of Representatives any time soon. And so it probably won't be sent to the President until after the broader budget debate is concluded. With that understanding, I am not inclined to oppose the legislation, which will send a needed signal that Congress is serious about dealing with military recruitment and retention.

Still, Mr. President, we need to put a lot more thought into this before sending it to the President. We need to be sure we're promoting recruitment and retention in a cost-effective way. And, more importantly, we need to figure out how we're going to pay for this.

As it is, Mr. President, we're putting the cart before the horse. And that, in my view, is a poor way to legislate.

Mr. VOINOVICH. Mr. President, let me begin by commending the work of Secretary Cohen, General Shelton, and the rest of the Joint Chiefs of Staff for recognizing the serious issues of recruitment and retention that S. 4 is written to address. Let me also thank Chairman WARNER, Ranking Member LEVIN, Personnel Subcommittee Chairman ALLARD and his Ranking Member CLELAND, as well as the other members of the Armed Services Committee. This legislation is a tremendous effort to address one of the most critical issues currently facing our men and women in uniform.

While I support much of the content of S. 4, I have some real problems with the process we are pursuing to meet the requirements of our armed forces. Specifically, why are we considering this legislation now before a budget resolution has been passed? Are we not tying the hands of both the Budget Committee as well as the Appropriations Committee with this legislation? Why did we take the pay and pension provisions out of the defense authorization bill? Passing this legislation would commit the Senate to spending an additional $55 billion between fiscal year 2000 and fiscal year 2009. Is this a step we are ready to take? Let me point out that these concerns are not limited to this legislation alone. I will apply the same scrutiny to any bill, no matter how well-intentioned, in the future as well.

Which leads me to my second main concern about S. 4—its cost. $55 billion is a significant amount of money, even in Washington, D.C. Nevertheless, we have taken the opportunity during the course of debate on this bill to add a number of costly amendments. While I

have supported some of these efforts, they have been added to this legislation in an ad hoc manner without any discipline. I understand that this is often the nature of debate in this body, but I have a great fear we are forgetting our commitments to the budget caps, paying down the national debt and general fiscal responsibility.

The $55 billion cost for the base text of the bill, plus the costs of all the adopted amendments, must come from somewhere which begs the question—from where? The answer I have been getting from my colleagues supporting this bill is that the money will come from somewhere and the details will be worked out. I am not willing to accept that explanation at this point—I need to know details, the framework for moving ahead with this kind of spending before I would be ready to support it. Do we plan on increasing the allocation in the budget resolution for military spending? Further, once an allocation level has been established, will this effort force us to put other readiness and modernization efforts aside? These questions have not been answered. I understand that Secretary Cohen has echoed these concerns. They should and must be addressed before I can support this measure.

Let me be clear. I strongly support the intent of this bill and would like to support its content in a different package down the road. However, now is not the time to make these type of spending decisions. Regrettably, I will join several of my colleagues in voting against S. 4 for budgetary reasons.

Mr. KENNEDY. Mr. President, the men and women in the Army, Navy, Air Force, and Marine Corps continue to perform their duties superbly in the defense of our nation. Today, as our nation prepares for the possibility of sending 4,000 marines and Army troops as part of a peacekeeping force for Kosovo, we must do all we can to support all our forces who sacrifice so much to serve and protect this country.

Our service men and women deserve a pay raise, and they deserve fair retirement benefits. If we don't make significant improvements in these two areas, we will continue to fail to recruit and retain the forces needed to maintain our nation's military readiness and protect our national security.

I voted to report S. 4 out of the Armed Services Committee, and I support this legislation. I remain concerned, however, that we are moving too quickly, without adequately considering the budget impact or the best means to recruit and retain our talented service men and women. Clearly, action by Congress is needed to meet the needs of our soldiers, sailors, airmen and Marines, but we have not yet adequately considered the full impact, including the long-term impact of these policy changes on our troops and our defense budget.

The Chairman of the Joint Chiefs of Staff and the Joint Chiefs, themselves, have testified about the need for reforms in military retirement plans, and they have expressed their support for a significant and much-needed pay raise. But, we have not held any hearings at all on the specifics of this bill.

Secretary Cohen expressed his concerns about the overall impact of this legislation in a letter to Senator LEVIN last Friday. The Secretary said he appreciated the Senate's attention to this critical issue, but he also emphasized his concern about the high cost of this legislation and about the lack of hearings to discuss the bill's impact on our service men and women.

Our Armed Forces are facing complex challenges. Military recruiting has tremendous difficulties. In the last few months, the Army and Navy have announced they must reduce their recruiting standards in order to meet their recruiting goals. The Air Force, facing an unusual drop-off in new recruits, announced that for the first time it will use national television advertising in its recruiting.

Our Armed Forces are having increasing difficulty retaining highly-skilled personnel. Retention of mid-level officers and enlisted personnel is the lowest it has been in many years. These mid-grade personnel are the backbone of our Armed Forces. They lead and train new service members. They provide critical continuity between high-level commanders and individual soldiers, sailors, airmen, and Marines. We cannot afford to lose these irreplaceable leaders.

Recruiting and retention are in critical condition. Our margin for error is gone, and we must ensure that the policies we enact are the best ones. That is why many of us have serious reservations about how we are proceeding. We have too little information about whether these proposals are cost-effective or will do enough to boost morale, increase retention, or improve recruiting.

We are all concerned about the readiness of our Armed Forces. But further consideration of these far-reaching proposals is essential. Before this bill reaches the President's desk, we need a far better understanding of this bill's impact on our service men and women and on the overall budget.

Mr. ABRAHAM. Mr. President, I rise to address an issue crucial to the well-being of our troops, and crucial to the defense of our nation. For too long, this administration has ignored the needs of the brave men and women who defend our interests and our shores. This is unfair, and in my view it is unwise.

It is unfair that, as our colleague Senator MCCAIN has found, 11,000 military families are currently forced to rely on food stamps to make ends meet. When people put themselves in harm's way for their country, they should not have to go on public assistance to feed their families.

It is unwise because it ignores the well-being of our troops. Well-trained, properly motivated troops are the single most important factor in maintaining our national security. Without them we will not be able to achieve and maintain military readiness. We will not be able, as a nation, to fight and win.

Under current conditions, Mr. President, we cannot expect to maintain the levels of re-enlistment, expertise and morale we need to maintain an effective military force. Military pay is simply too low. It is not competitive with civilian pay. And this military-civilian pay gap is driving away the people we need to defend our nation.

For example, we lost 626 trained pilots in 1997 alone. Overall re-enlistments have been dropping fast. In 1997 fewer than half our troops completing their first tour of duty chose to re-enlist.

Mr. President, we cannot fly planes without pilots, just as we cannot deploy ships or tanks or any other military hardware without the soldiers and sailors who make them work. And if we cannot keep well-trained pilots, soldiers and sailors, we will face increased danger to our troops, or weaponry and our interests in any conflict.

Mr. President, our men and women in uniform have a history of making do, but we soon will not have enough of them to do the job of defending our nation and our interests in a dangerous world.

It is time to give our troops a raise. President Clinton has made a modest proposal on this issue but frankly it is too modest. It is, as they say, a day late and a dollar short.

That is why I was happy to join with Senator WARNER and 23 other Republicans in introducing the ''Soldiers', Sailors', Airmen's, and Marines' Bill Of Rights'' (S. 4). This measure is key to re-establishing the morale, experience and re-enlistment figures we need in our armed forces.

This legislation will increase FY 2000 pay by 4.8%. It will further increase pay in those grades where retention is critical. And it will provide a monthly allowance of $180 to all members of the uniformed services eligible for food stamps, eliminating their need to go on public assistance.

This legislation also will restore traditional military retirement pay and set up civilian-style thrift savings plans to encourage more men and women to make the military their career.

Finally, this legislation will address the increasing trouble our troops face in taking advantage of their GI Bill education benefits. The cost of higher education has skyrocketed, Mr. President, and GI Bill benefits have not kept pace. Thus a growing number of veterans are not making use of their education benefit, even though they have paid $1,200 to get it.

To address this situation, S.4 will eliminate the $1,200 contribution requirement. It also will increase the monthly GI Bill benefit from $528 to

$600 for members who serve at least 3 years, and from $429 to $488 for those serving less than 3 years.

We still have the greatest military in the world, Mr. President. I believe that it is time to pay a decent wage and provide decent benefits to the people who keep it that way.

This legislation includes a requirement that the Defense Department report annually on the impact of these programs on recruiting and retention, assuring that we can keep track of the needs of our troops. In doing so I am sure they in turn will be better able to see to the needs of their families and of their country.

I urge my colleagues to support this important legislation.

Mr. LIEBERMAN. Mr. President, S. 4 is a worthy attempt to address the growing problem the military is encountering in attracting and retaining the right men and women in the right numbers. As the challenges facing us demonstrate, the effectiveness of our military, and its readiness to act immediately to protect our national interests, must always be a priority concern of Congress. The outstanding performance of our forces in Desert Fox shows that the American military remains more than equal to any task and may in fact be the best force the United States has ever fielded. Even at the height of the cold war, with the largest military budgets ever, it is difficult to imagine those units routinely coping with the range of complex military operations accomplished by our military today.

Nonetheless, our military faces readiness problems including falling recruitment and retention in critical skill areas; aging equipment that costs more to keep operating at acceptable levels of reliability; a need for more support services for a force with a high percentage of married personnel; and frequent deployments. The Department of Defense deserves credit for highlighting these problems, the administration deserves credit for increasing the budget to address them and, our colleagues, who have crafted this bill, deserve credit for bringing these issues into clear focus.

This legislation is commendable in its attempt to increase resources to address and solve the myriad problems facing today's military forces, specifically pay and benefits. However, we should not do something in a hurry that we will have cause to regret at leisure. The many detailed provisions in this proposed legislation have not been fully vetted by the services, the Joint Staff, the Secretary of Defense or this body. What we spend money on, is as important, as how much money we spend. We must have a plan to spend available funds wisely.

I believe this legislation is premature, and I will vote against it at this time for three reasons. First, there is no doubt that adequately compensating our most valuable resource, our service men and women, is the wisest use of our defense dollars. But we must also ensure we have a sensible and executable procurement strategy for today and tomorrow. We must find the right balance given finite resources. Therefore, I believe more analysis is needed on the most favorable, most cost efficient way to compensate today's force. This bill would add more money, but I am not yet convinced we have a good idea of where more money will work best. A case in point, historically, pilot retention has been difficult, and the numbers of pilots for our future force is projected to be considerably less than required. This problem was highlighted specifically in the recent readiness hearings. However, even as we prepare to redo the pay scale and improve the retirement pay, the take rate for pilot bonuses is reportedly increasing. So, where is the best place for additional funds—redux, improved pay scale, further bonuses, better quality of life advancements—what makes the most sense? Furthermore, we need to discuss and examine the impact of this proposed legislation on other government workers. What about the recruitment and retention of our dedicated civilian force?

Next, as we prepare to spend money to ensure our force is compensated and ready, we must ask: ''ready for what?'' Which men and women do we most need to recruit and retain, and are we ready for them now? If we spend more than we must for people and less than we should for the tools they need, we will create new problems. For instance, we need more pilots, but we do not yet have an adequate number of aircraft to train them. Should we recruit them and then keep them ''grounded'' because we haven't funded the equipment to allow them to fly. Readiness in 1999 will not necessarily be readiness in the future. We must ensure our forces are ready to address challenges in the near term as well to challenges that emerge over the longer term.

Finally, besides deciding how best to spend the available funds, we must find the available funds. We do not know what this bill will actually cost. Before we act, we should know more clearly what the cost will be, and where the funds will come from. Many of the provisions offered in this legislation differ from the Pentagon's request, adding costs that must be absorbed from other programs. As the Administration, and Secretary Cohen have pointed out, the money projected to be added to the defense budget, or any foreseeable increase, will not be enough to completely cover current readiness increases and meet the modernization requirements of all the services. With the proposed pay raises, higher cost-of-living adjustments and other miscellaneous items it is estimated that S. 4 will cost an additional $7 billion in discretionary funding through FY 2005, and absent an increase in the topline for Defense, these items will only displace other key elements of the Defense program.

Furthermore, while searching for the appropriate amount of money, we must demand 100% cost effectiveness, and the elimination of waste and redundancy. We must do the appropriate analysis and make the tough choices, to include examining the possibility of closing down military facilities that don't make military-economic sense any more. The Secretary of Defense and the Joint Chiefs must be allowed to evaluate this legislation, it's cost and, then ask where they would choose to take the risk if it comes to that.

Major studies on military pay and pension issues by the Congressional Budget Office, the Government Accounting Organization, and the Defense Department are nearing completion, with all reports expected to be released by late spring. Upon release and examination of these reports, we will be better able to judge the needs in these areas and how best to respond to them. I urge that instead of deciding on this legislation today, we expeditiously arrange appropriate hearings to analyze these ideas in the context of the entire defense authorization bill. This bill is a great point of departure, it is not a final product. We have not yet done the critical analysis to know where the priority should go within the broad category of pay and allowances to most effectively attract and retain the right people. We do not know how a separate bill of this type will impact the authorization process for other programs, ultimately affecting the hard questions of long-term readiness.

So, though I strongly favor increases in pay and benefits for our military, this bill is premature and therefore I will reluctantly vote against it.

Mr. DEWINE. Mr President, over the course of the last year, we have heard more and more evidence that the readiness of our nation's military force is slipping. It became a key issue when our military leadership began to warn of shortages of personnel in key specialties, gaps in weapons maintenance, disparities between military and civilian pay, and a high pace of military operations. These and other similar issues have a serious effect on our ability to respond quickly and effectively to military conflicts. In my view, the time has come to restore our nation's military readiness, starting with the morale of our troops.

When the military talks about readiness, it is referring in part to the weapons, equipment, bases and support infrastructure needed to carry out its missions. A declining defense budget since 1989 is the prime source of today's problem; it forces our military commanders to make some tough choices. For example, underfunding of real property maintenance and facility operations has often led commanders to reallocate funds meant for training to meet urgent repair needs. Weapons maintenance requirements have also been underestimated on a regular basis. Finally, our continued presence in the Persian Gulf, Bosnia, and potential new responsibilities in Kosovo, to

name just a few, have stretched our military forces and our military budget even further.

But readiness isn't just about hardware and property. It's about manpower and morale. The men and women who make up our armed forces represent the best fighting force ever assembled in human history. But shortfalls in personnel recruitment and retention have made it increasingly difficult to ensure full manning of deployed units. Reversing these negative trends in military pay, retirement benefits, and recruitment must be a top priority in the 106th Congress.

Fortunately, the U.S. Senate is off to a good start. One of the first bills we will pass this year is S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act which was offered by my friend and colleague from Virginia, Senator WARNER, the Chairman of the Senate Armed Services Committee. I am proud to be a cosponsor of this bill.

The purpose of S. 4 is simple: to improve the readiness and morale of the troops who so selflessly defend our country. The first, and most needed, reform included in this bill is a pay raise of 4.8% beginning January 1st, 2000. The bill also would institute an annual pay raise equal to the Employment Cost Index plus 0.5%. This will help close a military to civilian pay gap of over 13 percent.

Amazingly, there are members of our military whose paycheck is so low they qualify for food stamps. For them, S. 4 would provide a monthly ''special subsistence allowance'' of $180. This initiative is designed to dramatically improve the ''quality of life'' for the youngest and most economically vulnerable military families.

Mr. President, when I visit Wright-Patterson Air Force Base, I often hear concerns about ''eroding benefits,'' especially concerning retirement pay. Currently, our military personnel fall under several separate retirement plans depending upon the date they initially entered active service. The original military retirement plan called for retirement pay, after 20 years of service, of 50 percent of their basic pay per month. This percentage would then increase by 2.5 percent for each additional year of service up to a maximum of 75 percent of basic pay at 30 years of service.

However, in 1986, a new retirement plan was adopted that was intended to increase the incentive for our troops to remain longer on active duty. This plan, commonly called ''Redux'', lowered the percentage from 50 percent after 20 years to 40 percent, but increased the yearly increases for years of service above 20 years, from 2.5 percent to 3.5 percent per year up to a maximum of 75 percent after 30 years of service.

The ''Redux'' retirement plan is very unpopular among our military personnel. S. 4 would try another approach. It would give military personnel on ''Redux'' the opportunity of accepting a one-time bonus of $30,000 to remain on the ''Redux'' retirement plan, or to elect to revert to the original retirement system.

Finally, S. 4 would create a Thrift Savings Plan. This plan allows for a ''before tax'' contribution of up to 5 percent of the member's basic pay. The member can also elect to add any part of any special or incentive pay to their Thrift Saving Plan. In addition, the Service Secretaries would be authorized to make contributions to a member's Thrift Savings Plan if that member serves in a specialty designated as critical to the service. These contributions require the member to remain on active service for an additional six years.

Mr. President, since the end of the Cold War, our military forces have been stretched to the limit, having to manage their resources and mission with an ever tightening budget. Our single most important resource always has been our troops, and like any resource, we have to continue to invest in them. I would like to commend the Chairman of the Armed Services Committee, Senator WARNER, for bringing S. 4 before the Senate. It is bipartisan legislation. It is legislation that literally puts people first; in this case I'm referring to the men and women in our military. The Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act represents a much-needed, long-overdue investment in the people who are asked to do so much for our country and make such dramatic sacrifices while defending our country. I plan to see that Congress makes good on this vital readiness investment in 1999 by working to ensure enactment of this important legislation.

Mr. BIDEN. Mr. President, I support the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999. Like many of my colleagues, I am very aware of the strains on America's military personnel. I have only to look at the pace of operations at Dover Air Force Base, in my home state of Delaware. Dover's strategic airlift and air cargo terminal support every single ongoing operation and new troop and equipment movement to Europe, Southwest Asia, and Africa. A quick look around the world today shows that Dover personnel are working hard, alongside their colleagues throughout the force, and need to be recognized with adequate pay and benefits. America's military is doing an exceptional job defending vital American interests in Bosnia, Iraq, and South Korea. Our troops are also using their incredible logistics skills to assist our Central American neighbors who have been devastated by hurricane damage. These are just a few examples among many of the United States' military working every day to create a more stable and safe world for all of us. In today's dynamic world, the military's task is a demanding one.

With this bill, we make it clear that we understand those demands and that we will continually strive to take better care of our troops. I have long been concerned that we have not always adequately addressed the compensation needs of our military, nor have we always provided for pay equity. For that reason, last year I amended the Defense authorization bill to include an increase in hazardous duty incentive pay for mid- and senior level enlisted aircrews. I am pleased that this year we have a comprehensive bill addressing the critical issue of compensation and equity. I have said it before and I will say it again, the patriotic men and women who serve in our military do not do so to become rich, but that does not change the very real needs they and their families have for adequate recompense.

The bill enhances the President's request for a pay raise, pay table reform, and changes to the military retirement system. The Joint Chiefs have said repeatedly that these three steps are their top priority this year. The 4.8 percent basic pay raise and the decision to increase future year raises by 0.5 percent more than the civilian raise index is an important step toward closing the pay gap between military and civilian employees. The pay table reform, which is identical to that suggested by the President, will make the pay structure more equitable and focused on performance.

Another important equity issue for the past thirteen years has been the military retirement system. The changes made in the summer of 1986 created an inequity in the retirement benefits for members of the armed services who chose to retire after 20 years. The end result was that experienced service members decided that the reward was too small to stay in the service for 20 years, compared to the benefits offered in the private sector and the needs of their families. This bill corrects that inequity by allowing personnel to revert back to the pre-1986 system of receiving 50 percent of their base pay. It also provides an option to stay with the post-1986 system of receiving 40 percent of base pay along with a $30,000 bonus. This sends an important message to our troops that their service and experience today are just as valuable and important as they were before 1986.

I want to compliment the committee, and the leadership of Senator CLELAND, for including enhancements to the Montgomery G.I. bill. The original bill was written in World War II and needed to be adapted to the challenges that face members of today's military. Increasing the actual benefits and providing more flexibility in how they are used makes it easier for service members to attain their educational goals for themselves and their immediate family. In an era where education is increasingly vital and expensive, these changes are long overdue.

I am also pleased that this bill was amended to include important reforms of TRICARE, the military health care

benefits system. The bill will help the Department of Defense provide better services, reduce the bureaucratic hassle of obtaining those services, and make sure benefits are tranportable to different TRICARE regions. It also provides the necessary authority to increase the amount TRICARE reimburses providers in areas where such increases are needed to keep an adequate number of qualified health care providers available. Military health care systems must be able to compete with private health care systems for the services of quality providers. In addition, the bill will help the military better utilize its facilities by allowing TRICARE facilities to be reimbursed by other insurance agencies. It is my hope that this legislation will make it easier for American servicemen and women to get the quality health care they and their families deserve.

Finally, Mr. President, I share with my colleagues a concern that we need to be careful in our allocation of limited resources before we have adopted a budget. It is imperative that this bill actually help our troops and not create new resource problems in other areas. For that reason, I am also very pleased to see the requirement for the Secretary of Defense provide an annual report on how this bill impacts recruiting and retention. This requirement will allow us to measure the effectiveness of the bill and make sure that we have chosen the right mix of incentives for the brave men and women who work so hard in defense of all of us.

Overall, I believe this bill is an important step in support of our troops. It improves pay equity and overall compensation levels. It also addresses inequities in the retirement system and it enhances the benefit system, including military health care benefits. I support the bill and urge my colleagues to do the same.

Mr. KERREY. Mr. President, I welcome a discussion in the Senate about military pay and retirement benefits. Review of these and other quality of life issues in today's military is long overdue. The defense debate in recent years has centered on equipment procurement, readiness issues, and the wisdom of our nation's troop deployments and foreign policy. This year we should turn to consider the men and women who dedicate their lives to keeping our nation safe.

Military service requires valor and sacrifice. It attracts a certain type of individual, a person with the character to lead, the resolve to complete a task however difficult and demanding, and the willingness to sacrifice his or her life for fellow soldiers and country. For those reasons, the decision to join the military has always been unlike the decision to join any other profession.

The unparalleled strength of our economy in recent years, and the growth of new technologies and industries, further complicate the decision to serve in the military. Just as our society has entered a new age of technological change, the United States Military has also entered a new era of digital warfare, where the machinery of battle is more reliant upon silicon chips than hard steel. To keep these processors and equipment running, our military needs to attract and retain highly skilled, intelligent men and women.

Today, our Defense Department must also compete for recruits with Microsoft and Price Waterhouse Coopers as well as companies in more traditional industries. The Defense Department cannot do that by offering a second-tier pay scale which lags significantly behind the private sector. If we want the best and the brightest, we have to be willing to pay them accordingly.

I welcome the Administration's decisions to increase military pay by 4.4% and to renew the retirement program that offers benefits of fifty percent military pay for twenty years service. These policies seek to restore equity in compensation for military personnel, and properly reward those who have committed twenty years of their lives to protect our nation. Yet, I do not believe the Administration's military pay proposal goes far enough to resolve the inequity. Therefore, I support S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999, because this legislation does more to provide financial security to our uniformed men and women.

My colleagues understand that the nature of pay and benefits in the United States military is unlike pay considerations within our private sector and compensation practices in other nations' militaries. Within our private sector, the issue of compensation is the primary focus for the vast majority of Americans when deciding between competing job offers. In other nations that lack strong democratic principles and a tradition of rule of law, foreign leaders use relatively high pay for soldiers to assure military support for their government.

But in the United States, pay is not the primary reason people join the military. Some join for the experience of military service, for the mental and physical challenges that our Army, Navy, Air Force, and Marines place upon young men and women, and the sense of accomplishment that comes from meeting those challenges. Some join as a means to an education, to partake of the G.I. Bill and other post-service education benefits. Yet, while not always the primary motivating factor, the men and women who serve our country always do so out of a sense of patriotism. They choose to commit the time and effort of their youth, join organizations with unique cultures distinct from contemporary institutions, forego at least temporarily the chance for greater wealth, and risk physical harm and possibly death, to repay our nation for the freedoms and opportunities they as citizens enjoy.

Money never has been and never will be the primary deciding factor for people seeking to join, or deciding whether to stay, in the U.S. military. But, on the margin—the always important margin—the size of a military paycheck does make a difference. S. 4 may not fully correct the deficiency in military pay, but it is at least a significant step along the way.

I understand the concerns raised by many of my colleagues about the budgetary ramifications of this bill. S. 4 provides a rise in pay of 4.8% for fiscal year 2000, a substantial increase from the Administration's proposed 4.4% pay raise. Either of these increases will have ramifications on military procurement, on research and development, on operations and maintenance accounts that support readiness, and other areas of the defense budget as well. Similarly, S. 4 provides a pay raise for fiscal year 2001 and beyond of one percent above the level of the Employment Cost Index. This is a statutory commitment whose cost we cannot today determine with any suitable degree of accuracy. While we may decide to accept these increases, the consequences of these policies need to be reviewed and resolved within the context of the entire defense budget.

Also, there are currently three studies underway examining military pay and pension issues, conducted by the Congressional Budget Office, the General Accounting Office, and the Department of Defense. These studies are examining how factors other than pay such as high operations tempo, lack of essential material and equipment, declining state of readiness, concern over military health care services, job dissatisfaction, and a booming civilian economy may affect the decision to join and remain in the military. Once we receive the conclusions and recommendations of these studies, we should again revisit the issues surrounding military retention and recruitment.

Already, as a consequence of amendments which have been attached to this bill, the Senate has accepted an unfunded liability of approximately $16.5 billion. Currently, there are no offsets in the legislation to address this liability. It is my sincere desire that this issue is addressed and offsets are determined when the bill goes into conference with the House. If these costs remain outstanding when the bill returns to the Senate, I will have strong reservations about voting for unfunded liabilities a second time. The tight caps and fiscal discipline I have supported throughout this decade do not start creating real on-budget surpluses until FY2001. This year's surplus is created entirely by excess payroll taxes and interest on the Social Security Trust Funds. So I am concerned that the Senate is considering legislation that may bust the cap so early in the legislative season. I encourage my colleagues to maintain our recent tradition of fiscal discipline and seek ways to pay for this bill within the current budget caps.

Nevertheless, our military is only as secure as the people that operate the guns, ships, planes, and terminals that help keep our nation safe. The men and women in our Army, Navy, Air Force, and Marines are the strength of our military, not the equipment which they utilize. If providing some level of monetary security to our military personnel means we must forsake some weapons or postpone some research, I believe this tradeoff will actually enhance our national security far more than the alternative.

S. 4 goes a long way towards putting our military pay scale on the same footing as private sector wages. It improves the retirement and educational benefits available to our military personnel. For those reasons, I support the passage of this legislation.

Mr. BYRD. Mr. President, there is no question that America's armed forces are the best in the world. The men and women who serve in our military demonstrate their courage and dedication every day, from the fighter pilots who are making life-threatening raids into Iraq to contain the deadly forces of Saddam Hussein, to the soldiers who are maintaining peace in the war-weary towns of Bosnia, to the countless sailors, soldiers, and airmen on lonely patrol throughout the world, enduring hardship and homesickness to protect their fellow Americans. It is vital to our national security that we maintain the level of excellence that these troops represent.

Of the many factors that contribute to the robustness of our military, none is more basic than the ability to recruit and retain qualified, talented individuals. Without enough people to operate them, our mightiest weapons are worthless. Without enough people to execute them, our best planned strategies are useless. Without enough people in uniform to defend it, our nation is at risk.

We ask much of the men and women who serve in our military, and of their families as well. Yet, as we have learned from the Joint Chiefs of Staff, pay and benefit levels for members of the armed services have been slipping behind those of their civilian counterparts. Today, we are facing a personnel shortfall of alarming proportions. The need for the legislation before us is acute. According to recent published reports, the Army fell 2,300 short of its recruiting goal—approximately a 20 percent deficit—in the first quarter of fiscal year 1999. The Navy missed its recruitment target by almost 7,000 last year. The Air Force, which has suffered a hemorrhage of pilots over the past several years, fell 400 short of its first quarter goal.

Many factors are contributing to the current recruitment and retention problems of the services, but military leaders across the services and up and down the chain of command have identified pay and benefits as major culprits. We need to come to grips with this problem. In my state of West Virginia, approximately 9,000 men and women serve around the world in the active and reserve armed forces. They are subject to being called away at a moment's notice to some of the most dangerous trouble spots on earth. The least we can do for them in return is to make sure that their families will be able to make ends meet while they are deployed away from home. The least we can do is strive to ensure that the monthly paychecks we issue to our men and women in uniform are comparable to that of their civilian counterparts.

Improving the pay and benefits of the men and women who serve in our military is an obvious first step to help reverse the downward spiral in recruitment and retention, and I applaud the Chairman of the Senate Armed Services Committee, Senator WARNER, for moving quickly to address this situation. Likewise, I applaud Senator LEVIN, the Ranking Member of the Committee, for insisting that the benchmarks of prudence and careful consideration be met in the bill before us. This legislation is not the place for grandstanding or political one-upmanship. I am hopeful that as we debate this bill over the coming days, we will work for the common good of our military and our nation, and come up with a balanced, commonsense bill.

I hope, also, that we will be mindful, as we consider this bill, that monetary compensation is only *one* factor affecting recruiting and retention levels in the military. Plainly put, we cannot buy the finest military in the world. To rise to the level of excellence that the United States military has achieved requires an uncommon degree of dedication, self-sacrifice, and patriotism—qualities that can be inspired and nurtured but not bought. By all means, let us work together to improve the compensation of our men and women in uniform. But let us also work together to preserve and enhance the intangible compensations of military service—the honor, respect, and sense of accomplishment—that form the true foundation of military service.

Mr. DASCHLE. Mr. President, I believe we must significantly boost compensation for the men and women of our armed forces who serve this nation so tirelessly and effectively. The end of the Cold War has meant that the numbers and types of overseas missions we ask these people to perform has grown. The rising number of military operations abroad coupled with an extremely vibrant U.S. economy has meant the military services are having a harder time attracting and keeping highly skilled personnel.

The Secretary of Defense and the Joint Chiefs recognized this troubling development last year in testimony before the Congress and began making the case for addressing the military's recruitment and retention problems. The examples they cited were troubling. The Air Force is experiencing serious shortfalls in retaining its pilots. The Navy is having difficulty manning its ships. The Army finds itself coming up short in filling out its units. Only the Marine Corps appears to be faring well at the moment.

The President listened to our senior military officials, and he responded. The President proposed a $23 billion personnel initiative in his FY2000 budget to improve the military's pay and retirement benefits. The President's budget would provide the men and women of our armed services with the largest pay raise since 1982. In addition, it would reform military pay tables to reward performance, increase specialty pay and bonuses to address retention issues, and restore retirement benefits. Just as important as this list of benefits is the fact that the President made these proposals while remaining faithful to his pledge to Save Social Security First. The President was able to accommodate these proposed increases without spending any of the surplus in FY2000. In short, the President's proposal is fully paid for.

Like numerous members of Congress from both political parties, I have gone on record in the last several months in support of the Defense Department's argument that military pay and retirement benefits need to be enhanced if we are to continue to field a well-trained, highly capable military. That is why, along with Senator LEVIN, Senator CLELAND, and many other Democratic Senators, I introduced the Military Recruiting and Retention Improvement Act of 1999—a bill to increase pay and retirement benefits for members of the Armed Services. I am pleased that many provisions of this legislation were included in S. 4. Although the initial Democratic and Republican proposals were slightly different, I think we can all agree that people are the military's most important asset.

To see why, you need look no further than my home state of South Dakota and the more than 3,000 active-duty personnel stationed at Ellsworth Air Force Base. Like their counterparts at military installations around the county and throughout the world, the men and women at Ellsworth Air Force Base serve their country with pride and distinction every day. Most recently, crews flying and maintaining B–1B bombers from Ellsworth participated in Operation Desert Fox. This was the first time that B–1Bs were used in combat, and the fact that B–1B crews from Ellsworth were so successful in hitting their targets is a credit to their enormous commitment and dedication.

With dedicated people like those we see at Ellsworth and other military installations around the world, it is easy to see why all of us—President Clinton, Defense Secretary Cohen, Joint Chiefs Chairman Shelton, Democrats, and Republicans—agree that something must be done. Therefore, a key issue before the Senate today is how best to accomplish this end, how best to ensure that some of this nation's best and

brightest continue to pursue a career in the military?

However, it is not the only issue. Those who are concerned about having a well balanced, fiscally responsible defense plan must also ask another question. What is the best way to provide military personnel with the pay and retirement benefits they so richly deserve while remaining true to our other defense and domestic priorities and staying within the tight fiscal constraints we find ourselves operating under? Indeed, this may be the most important question we face today: how do we do right by our military personnel, our other defense and domestic priorities, and our obligation to be fiscally responsible?

The bill before us today provides only a partial answer to this critical question, as it spends $12 billion beyond the President's proposal without providing offsets for the additional spending. As I said earlier, I wholeheartedly support providing additional benefits to our troops, and I will vote for this bill today. What troubles me about S. 4, however, is that its authors have chosen to stay strangely silent on how they will pay for the additional $12 billion in benefits.

Mr. President, I believe that when it comes to something as important as the pay and retirement benefits of our military, Congress should leave no questions unanswered. Fortunately, the action we take today in the Senate on S. 4 is the first step in a multi-step process. The House must develop its version of this bill, and differences between the House and Senate versions must be resolved in a conference. I urge the House and Senate members who participate in this process to fill in the blanks contained in S. 4. Our troops deserve additional pay and benefits. We owe it to both the troops and the American people to show how we will pay for them. I will be working hard with my colleagues on both sides of the aisle to provide this answer and produce a military pay and retirement bill of which we can all be proud.

AMENDMENT NO. 26

Mr. WELLSTONE. Mr. President, on the Rockefeller amendment, I ask unanimous consent that Senator GRAMS of Minnesota and Senator ASHCROFT be added as cosponsors.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, with my colleague from Michigan, and with the consent of the leadership of the Senate, we would like to place before the Senate at this time a unanimous consent request, which I will not make—I repeat, place—in the hopes that we can bring this bill to a conclusion.

In the future, I will ask unanimous consent that at the hour of 5 o'clock today there be 10 minutes of debate with respect to the Rockefeller-Specter amendment No. 26, with 5 minutes under the control of Senator ROCKEFELLER and 5 minutes under the control of the Senator from Virginia. I will further ask consent that following that debate, the Senate proceed to a vote on a motion to table the Rockefeller amendment, to be followed by a vote on or in relation to the Harkin amendment No. 23, to be followed by a vote on or in relation to the Graham amendment, which again would be a tabling amendment by the Senator from Virginia. That amendment, as yet, has not been sent to the desk.

I will further ask that there be 5 minutes for explanation between each vote, to be equally divided in the usual form.

Further, I will ask unanimous consent that my distinguished colleague, the Senator from Michigan, the ranking member of this committee, be recognized for up to 15 minutes for general debate on the bill.

Finally, I will ask that following the votes listed above, the Senate proceed to third reading and final passage, all to occur without any intervening action or debate.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, hopefully, we will soon be voting on final passage of S. 4, the military pay and benefits bill. This bill would significantly improve the pay and benefits available to our troops and help address the military recruitment and retention problems identified by the Joint Chiefs of Staff.

The bill includes an across-the-board increase in military salaries, targeted pay raises to reward performance, enhanced military retirement benefits for service members who entered after 1986, enhanced education benefits for service members under the GI bill, and numerous other benefits. These changes should help provide fairer compensation to our men and women in uniform, and I think we would all like to see them enacted into law.

As I pointed out previously, this is an extremely expensive bill, and it has not been paid for. This bill has not been paid for. When the bill came to the floor, it included provisions that would cost roughly $35 billion more than current law over the 6-year course of the future year defense plan, the so-called FYDP. These costs include close to $24 billion in pay and benefits enhancements that were funded in the administration budget but almost $12 billion more in enhancements that were added by the Armed Services Committee.

Since the bill has been in the Chamber, it has become even more expensive, with the addition of many amendments increasing the benefits for our men and women in uniform. These include provisions eliminating the prohibition on dual compensation, authorizing participation in the Thrift Savings Plan by members of the National Guard and Reserves, extending enhanced GI bill benefits to members of the National Guard and Reserves, expanding the use of GI bill benefits to cover preparation for college and graduate school entrance exams, and expanding the number of soldiers eligible for the $180 per month special subsistence allowance.

Moreover, we have adopted an amendment offered by the Senators from Maryland and Virginia expressing the sense of the Congress that we should extend the pay increases provided in this bill for members of the armed services to the Federal civilian employees as well. If we were to act in accordance with just that one provision, we would add an additional $3 billion in defense spending and an additional $7 billion in nondefense spending, for a total of almost $10 billion of Governmentwide spending over the next 6 years.

Now, these are worthwhile provisions which would provide real benefits to the men and women who so loyally serve our country every day, but they have real costs attached to them, some in the hundreds of millions of dollars every year. Yet we have not said how we intend to pay for them.

Do we intend to revise the budget agreement to pay for the bill before us? If the defense budget is not substantially increased, for instance, we would then be faced with making deep cuts in the readiness and modernization accounts to pay for the changes proposed in this bill. Such cuts are coming at a time when our senior military leadership has already expressed concerns that our readiness could have a serious impact on our national security. For this reason, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff stated that they would support the increased benefits contained in this bill only if the additional money does not come out of other defense programs.

For this reason, the Secretary of Defense wrote the Armed Services Committee last week to express strong concerns about the cost of this bill and how it would be paid for. Secretary Cohen wrote:

> S. 4 proposes even larger pay raises, higher cost-of-living adjustments, and other items which are not in the budget I submitted . . .

I am concerned that until there is a budget resolution that sets the defense budget level, this bill constitutes an unfunded requirement on the Department. Absent an increase in the topline for Defense, [he wrote] these items will only displace other key elements of our program. It could be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities. For these reasons, it is imperative to proceed within the regular authorization process and after we have agreement on a budget topline.

Secretary Cohen's letter went on to say the following:

I appreciate the Committee's intent to address the legitimate needs of servicemembers regarding pay and retirement. However, I am concerned that S. 4 could have the opposite effect by raising hopes that cannot be fulfilled until the final budget number is set. Resolving these questions within the normal authorization and budget processes is by far the most desirable approach.

Similarly, when Secretary Cohen and General Shelton testified before the Armed Services Committee on February 3, the Secretary stated that any further increases to military pay and benefits should be considered in conjunction with the defense authorization bill. This is what the Secretary said:

[W]e do have to propose this as a package, because if we raise expectations unrealistically and we cannot fulfill them, we have done a disservice to our troops. Secondly, if we are going to take it out of the readiness accounts and procurement, we have also done a disservice. So the package that we have put together we think makes sense and we hope that any variation will be paid for, period.

Now, the package that they put together is in this bill and is paid for. But the bill goes way beyond the package that is paid for and way beyond the package which the Defense Department and the administration sent to the Congress. The bottom line is that every Member of this body would like to support the improved pay and benefits in this bill. At least I believe so. But at some point we are going to have to consider the question of how to pay for these improvements.

When this bill was brought to the floor, I noted that a number of points of order could be brought against it under the Budget Act, based on many provisions of the bill which would either exceed mandatory spending allocations or reduce revenues or increase the deficit. Since that time, we have added even more provisions which would violate the Budget Act, providing the basis for even more points of order.

At this time I would like to make some parliamentary inquiries of the Presiding Officer. My first parliamentary inquiry is as follows:

Is it correct that the bill that we are debating now, S. 4, is subject to a point of order under the Budget Act because the bill exceeds the Armed Services Committee's allocation for direct spending?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Is it correct, Mr. President, that S. 4 is subject to a point of order under the Budget Act because the bill reduces revenues by decreasing income tax revenues in fiscal year 2000?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Is it correct, Mr. President, that S. 4 is subject to a budget point of order because it increases the deficit in the first 5 years of the current budget resolution and in the 5 years that follow, and therefore violates the pay-as-you-go, or PAYGO rule, by increasing direct spending and reducing revenues without offsets?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. And is it correct that the amendment that we adopted yesterday repealing the reduction in military retired pay for civilian employees of the Federal Government was subject to a budget point of order because it increases the deficit and violates the pay-as-you-go rule by increasing spending without an offset?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. And is it correct, Mr. President, that the amendment that we adopted earlier today to allow members of the Reserve components to participate in the Thrift Savings Plan was subject to a budget point of order because it would decrease income tax revenues in fiscal year 2000?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. And is it correct, Mr. President, that the amendment we adopted earlier today to extend the window of availability of GI bill benefits for the National Guard and Reserve was subject to a budget point of order because it would increase direct spending without providing offsets?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. And finally, Mr. President, is it accurate that all of these budget points of order, if made, could only be waived by a so-called supermajority of the Senate; that is, by a vote of 60 Senators?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. I thank the Chair for the responses to those inquiries.

The fact that this bill violates the Budget Act in so many different ways helps to demonstrate the stark fact that there could be serious consequences from taking up this bill as we have, outside of the normal legislative cycle. Now, Mr. President, I share the desire of, I hope, all of our colleagues to do what we can to provide fairer compensation to our men and women in uniform, and to address the serious recruiting and retention problems which are faced by the services. However, if the House acts on this measure and it is brought back to the Senate floor following a conference without paying for the benefits in this bill, many of the same points of order under the Budget Act would still apply. And so, if the Budget Committee members at that point fail to raise points of order which would be available to such a conference report if it comes back to the floor without being paid for, I would reserve the right at that time to raise those points of order.

I think it is very important that before this bill comes back to either House in the form of a conference report, that any benefits in this bill be paid for. No matter how much we want to enact these important provisions into law, at some point we are going to have to pay for them. That time needs to come before final passage of any conference report on this bill. So I want to alert my good friend from Virginia that although the points of order were not raised here—the Budget Committee members determined, apparently, not to raise such points of order even though the Budget Act is, in the first instance at least, theirs to enforce—any of us can enforce it.

Any member of the Budget Committee, I would think, would have a special responsibility to make sure that we comply with the Budget Act. Each one of us has our own reasons for not raising a point of order. Each one of us could do so at this time.

I am willing to vote to permit this bill to take its next step without raising a point of order. However, if this bill is passed by the House, goes to conference, and comes back with benefits not being paid for, it would then be my intention at that time to consider raising points of order, and hopefully the Budget Committee would consider whether or not, in fact, the Budget Act maintenance doesn't require such points of order to be made before this bill actually is sent to the President.

I thank the Chair for his rulings and for his cooperation in response to my question. Again, I thank my good friend from Virginia for all of his effort on this bill. Even though we do have some problems with having a bill with such a large amount of money in it that is not paid for, nonetheless, I, as one Senator and ranking member, am willing to have it proceed to the House with the caveat I have just shared with my colleagues.

Mr. WARNER. Mr. President, I appreciate the comments of my distinguished ranking member. I am going to take it to heart, and I am confident this bill can be worked, hopefully, to your satisfaction.

Mr. President, I note the presence on the floor of the distinguished Senator from Florida who earlier addressed an amendment. I yield the floor for such purpose.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 29

(Purpose: To provide various revenue provisions)

Mr. GRAHAM. Mr. President, earlier this afternoon I made some remarks consistent with those that have just been made by the Senator from Michigan concerning the fact that we were,

as the first legislative action of the 106th Congress, about to pass a bill that was substantially unfunded, therefore creating not only the risk to the surplus, which today is a 100-percent Social Security surplus, but also establishing a dangerous precedent for future actions. Having so recently arrived at a balanced budget, we should not fritter that away the first opportunity that we have in this Congress.

There are a number of ways we can pay for this. We can pay for it by an amendment that would take funding from some other sources of the Federal Government, reduce those in the amount equivalent to balance the expenditure in this proposal. There has been no such amendment offered.

Another way is to raise taxes to a level sufficient to offset the additional spending. Mr. President, I indicated that it was my intention to offer such an amendment. I now send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 29.

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

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

The amendment is as follows:

At the end add the following:

TITLE V—REVENUES

SEC. 501. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after June 30, 1999.''

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after June 30, 1999.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after June 30, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on July 1, 1999.

SEC. 502. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. 503. EXTENSION OF OIL SPILL LIABILITY TAXES.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking ''after December 31, 1989, and before January 1, 1995'' and inserting ''after the date of the enactment of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 and before October 1, 2008''.

(b) INCREASE IN UNOBLIGATED BALANCE WHICH ENDS TAX.—Section 4611(f)(2) (relating to no tax if unobligated balance in fund exceeds $1,000,000,000) is amended by striking ''$1,000,000,000'' each place it appears in the text and heading thereof and inserting ''$5,000,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, the reason for the delay is an attempt to get as close a verification as possible as to just what is the unfunded amount in this legislation.

The best number available to us through the staffs of the majority and minority of the committee is $16.5 billion over the next 10 years. The amendment I am offering will raise $17.9 billion over that period. It consists of four items.

The first is a reinstatement of the environmental tax imposed on corporate taxable income and deposited in the hazardous substance Superfund. This was a tax that was in effect up until 3 years ago, when it lapsed. There have been proposals to reestablish this tax as part of a Superfund reform bill.

The controversy has been more on what the nature of that reform bill will be than the extension of the tax itself. So I am proposing that we extend this tax and, frankly, hope that before this Congress is over the committee upon which the Presiding Officer and the chairman of the Armed Services Committee sit will in fact produce a reformed Superfund bill.

The second item is a reinstatement of the excise taxes which also lapsed and which would, but for that, have been deposited in the hazardous substance Superfund bill. Both of those would be reinstated as of June 30, 1999.

The third item is a modification of the foreign tax credit carry-over. This was the provision the Senate adopted last year in legislation that was offered by Senator COVERDELL of Georgia. It did not become law.

Under the current law, if a corporation has a tax credit based on payment of taxes in a third country, the company can get a 3-year carry-back—that is, can apply that foreign tax credit for 3 past corporate tax years—or can carry it forward for 5 years. This would adjust that by providing there would only be a 1-year carry-back but would give a 7-year carry-forward.

The third is a reinstatement of the oil spill liability trust fund excise tax with an increase in the trust fund ceiling to $5 billion. This would be through September 30 of the year 2009.

Those four measures, as I indicated, over the 10-year period from 1999 through 2008, would raise a total of $17.979 billion and would fully cover the projected cost of this legislation.

I urge the adoption of this amendment so that we can achieve the dual purpose of seeing that we provide the compensation for our service personnel while at the same time maintain the fiscal discipline which we are so proud and pleased has brought us to the first balanced budget in 30 years, an objective that we do not want to frivolously lose.

Mr. President, I ask unanimous consent to have printed in the RECORD a table reflecting the estimated revenue effects of possible revenue offsets for this bill.

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

ESTIMATED REVENUE EFFECTS OF POSSIBLE REVENUE OFFSETS FOR S. 4. THE ''SOLDIERS' BILL OF RIGHTS''

[Fiscal years 1999–2008 in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	1999–2003	1999–2008
1. Reinstate environmental tax imposed on corporate taxable income and deposited in the Hazardous Substance Superfund.	tyba 6/30/99	61	424	559	571	584	602	631	663	690	716	2,199	5,501
2. Reinstate excise taxes deposited in the Hazardous Substance Superfund	tyba 6/30/99	173	703	709	716	721	724	731	739	749	754	3,022	6,718
3. Modify foreign tax credit carryover	(1)	84	546	487	454	424	394	271	267	263	259	1,995	3,449
4. Reinstate Oil Spill Liability Trust Fund excise tax and increase trust fund ceiling to $5 billion (through 9/30/09).	DOE	9	247	249	252	254	255	257	260	263	265	1,011	2,311
Net total		327	1,920	2,004	1,993	1,983	1,975	1,890	1,929	1,965	1,994	8,227	17,979

[1] Effective for credits arising in taxable years beginning after 12/31/98.

Note.—Details may not add to totals due to rounding.

Legend for ''Effective'' column: DOE=date of enactment, tyba=taxable years beginning after.

Source: Joint Committee on Taxation.

Mrs. LINCOLN. Mr. President, I rise today in support of the amendment being offered by my friend from Florida. I appreciate my colleague's commitment to the fiscal responsibility that we have worked so hard to instill in Congress. This is only my second month serving in the United States Senate, but I certainly hope that the process we have followed in considering this legislation does not set a precedent for future debates. I am dis-

appointed that this bill and the amendments have not been considered in hearings before the Armed Services Committee. And I am disappointed that we are circumventing the appropriations process by considering this legislation now.

Certainly I believe that the pay increase and other benefits for the men and women who are serving our country are warranted, but I think we're going about this all wrong. I spent four years in the House of Representatives where I made tough decisions to reign in our federal deficit because I believe that we ought to run our country like most people with common sense run their families. I thought—and still think—that we should not spend money that we do not have. Have we already forgotten the lessons that we learned when the debt soared past $4 trillion? Do we really want to take credit for helping our veterans and the people who continue to serve our country without making the tough, but responsible choices on how to pay for these programs?

When I first came to Congress in 1992, our country faced a $300 billion annual operating deficit. We have worked hard and made difficult decisions to balance the budget and today we are blessed with a surplus. If today's process is any indication of our future actions, we seem poised to squander away the surplus without taking the time to make responsible choices. If we were following the rules we wouldn't be in this situation. The PAYGO provision enacted in 1990 set the framework to discipline Congress when we wanted to spend money without deciding where to get it. And now it appears that we are going to violate that provision because we won't make tough choices.

While I am very proud of the men and women who serve our country in the armed forces and while I am pleased to vote in favor of programs to support them adequately, I am disappointed in this body for failing to follow procedures we have set for ourselves.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. WARNER. Mr. President, if I may add, I would like to ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has been recognized.

Mr. MOYNIHAN. Mr. President, I rise briefly to state my support for the amendment offered by my distinguished friend and fellow member of the Committee on Finance and simply to inform the Senate that the figures he gave amounting to $17.9 billion over a 10-year period have been formally provided to the Committee on Finance by the Joint Committee on Taxation. These are the final arbiters of our calculations in tax matters. So we are talking about real revenue which we can get simply by passing legislation, which we have already passed, and all of which has been proposed by the President's budget at one point or another.

Characteristically, Senator GRAHAM has had the good sense to advance an elemental but important proposition: this bill ought to be paid for. As Senator GRAHAM argued a short while ago, it would be a shame if the first bill passed by the Senate in the 106th Congress were to commence a reversal of the fiscal discipline that produced the first Federal budget surplus in three decades.

Perhaps memory is beginning to fail us. Thankfully, this Senator can still recall standing on this floor in 1993, during debate on the Omnibus Budget Reconciliation Act of that year. It was not easy getting that great deficit reduction measure enacted, but it was the right thing to do. Its cumulative deficit reduction effect was some $1.2 trillion over five years—twice what we expected when it was enacted.

We did the right thing then, and the right thing to do today is what the Senator from Florida has proposed. The offsets in his amendment are straightforward and ought to be noncontroversial. The first would extend Superfund taxes; the second would reduce the carryback period for the foreign tax credit (a measure that passed the Senate in 1997 and again in 1998), and the third would reinstate the oil spill excise tax—which wants to be done in any event. All told these offsets total about $17 billion, enough to fully offset the costs of the bill.

We grant that adoption of this amendment would create procedural difficulties, but surely these can be overcome on a piece of legislation that enjoys such broad support. In any event what is important here is the principle. I thank the Senator from Florida for pointing it out to us.

I thank the Chair, my friend, and the managers for allowing this intervention.

Mr. WARNER. Mr. President, earlier today the distinguished chairman of the Finance Committee, of which my good friend and colleague from New York is the ranking member, came to the floor and asked that I interpose a motion to table on behalf of Chairman ROTH. Therefore, Mr. President, I now move to table the amendment. Mr. President, I ask that the vote be stacked in accordance with, I hope, what will be a UC request which I will pose as soon as I can get some clearance from my colleagues.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me first thank the Senator from Florida for the determination which he has always shown to pay our bills, not to create additional burdens, debt burdens on our children and grandchildren, to protect the Social Security surplus, and to do what is right in terms of fiscal responsibility.

His amendment is an important amendment. It would make this bill much sounder in terms of paying for the benefits that we have in this bill. I commend him for that vision and for his determination. I hope that his amendment is not tabled. But I just want to commend him for putting, in very specific amendment form, a way in which we can pay for these benefits now instead of just expressing the hope that they will be paid for later.

If we follow that course, of course, the points of order which were referred to before would not be in order, which would be just fine with me. It also would guarantee that the benefits which we now say we want to provide to the men and women in service—in fact, are not guaranteed, but make it more likely to guarantee that those benefits would, in fact, flow down the road. And it is because of that additional assurance which would be given the men and women through the passage of that amendment that I strongly support the amendment of the Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, if the plan is to stack this and other amendments, could we have a period of 3 or 4 minutes prior to the vote on those stacked amendments to review them with our colleagues before they vote?

Mr. WARNER. I advise my colleague that there is provision for that in the order which is before the Senate at the moment but not yet agreed to. It will be in there.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 23, AS MODIFIED

Mr. LEVIN. Mr. President, I send to the desk, on behalf of Senator HARKIN, a modification to the amendment which he previously sent to the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. IMPLEMENTATION OF THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) CLARIFICATION OF BENEFITS RESPONSIBILITY.—Subsection (a) of section 1060a of title 10, United States Code, is amended by striking ''may carry out a program to provide special supplemental food benefits'' and inserting ''shall carry out a program to provide supplemental foods and nutrition education''.

(b) RELATIONSHIP TO WIC PROGRAM.—Subsection (b) of such section is amended to read as follows:

''(b) FEDERAL PAYMENTS.—For the purpose of providing supplemental foods under the program required under subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense for each of

fiscal years 1999 through 2003, out of funds available for such fiscal year pursuant to the authorization of appropriations under section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)), $10,000,000 plus such additional amount as is necessary to provide supplemental foods under the program for such fiscal year. The Secretary of Defense shall use funds available for the Department of Defense to provide nutrition education and to pay for costs for nutrition services and administration under the program.''.

(c) PROGRAM ADMINISTRATION.—Subsection (c)(1)(A) of such section is amended by adding at the end the following: ''In the determining of eligibility for the program benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) shall be considered eligible for the duration of the certification period under that program.''.

(d) NUTRITIONAL RISK STANDARDS.—Subsection (c)(1)(B) of such section is amended by inserting ''and nutritional risk standards'' after ''income eligibility standards''.

(e) DEFINITIONS.—Subsection (f) of such section is amended by adding at the end the following:

''(4) The terms 'costs for nutrition services and administration', 'nutrition education' and 'supplemental foods' have the meanings given the terms in paragraphs (4), (7), and (14), respectively, of section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).''.

(f) REPORT.—Not later than March 1, 2001, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall submit to Congress a report on the implementation of the special supplemental food program required under section 1060a of title 10, United States Code. The report shall include a discussion of whether the amount required to be provided by the Secretary of Agriculture for supplemental foods under subsection (b) of that section is adequate for the purpose and, if not, an estimate of the amount necessary to provide supplemental foods under the program.

On page 25, strike lines 10 through 15, and insert the following:

(b)(1), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance, as determined by the Secretary.

''(b) COVERED MEMBERS.—(1) A member referred to subsection (a) is an enlisted member in pay grade E–5 or below.

''(2) For the purposes of this section, a member shall be considered as being eligible to receive food stamp assistance if the household of the member meets the income standards of eligibility established under section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), not taking into account the special subsistence allowance that may be payable to the member under this section and any allowance that is payable to the member under section 403 or 404a of this title.

UNANIMOUS-CONSENT AGREEMENT

Mr. WARNER. Mr. President, I wish to propound a unanimous consent request. I ask unanimous consent that at the hour of 5:15 today there be 10 minutes of debate with respect to the Rockefeller-Specter amendment No. 26, with 5 minutes under the control of Senator ROCKEFELLER, 5 minutes under the control of the Senator from Virginia. I further ask consent that following the debate, the Senate proceed to a vote on the motion to table the Rockefeller-Specter amendment, followed by a vote on or in relation to the Harkin amendment No. 23, to be followed by a vote on or in relation to the motion by the Senator from Virginia to table the Graham amendment No. 29. I further ask consent that there be 5 minutes for explanation between each vote, to be equally divided in the usual form. Finally, I ask consent that following the votes listed above, the Senate proceed to third reading, and final passage occur, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 26

Mr. WARNER. Mr. President, would the Chair address the Senate with regard to the order placed.

The PRESIDING OFFICER. There is now going to be 10 minutes of debate, equally divided, on amendment No. 26 by the Senator from West Virginia.

Mr. WARNER. I see my distinguished colleague who has 5 minutes to present his case.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I understand there are 5 minutes equally divided. I just came from the Medicare commission. What I would prefer to do, in that I am offering the amendment and I was not here when the chairman gave his comments about it, is to be able to respond to the 5 minutes and therefore be the closing speaker.

Mr. WARNER. Mr. President, I have under my control some time. But I say to my good friend and colleague that, acting on behalf of the chairman of the Finance Committee, who did address the Senate, I yield back my time. Does he want to take a few minutes and examine the RECORD as to what he said? I would hate to delay this vote.

Mr. ROCKEFELLER. There is no reason to do that. Let me make a few comments and maybe the Senator can expedite the business of the Senate and we can go to the vote.

I want to bring up one matter, Mr. President. The Senator from West Virginia wishes to bring up one matter which was, in fact, not discussed, but which is of some aggravation to me since it comes from the Congressional Budget Office, and it was addressed to me, but I never got it. I had to go to the Finance Committee staff to get it. In that, they sort of attacked the whole idea of what this was going to cost and all the rest of it. I want to respond to that.

This is the cost estimate that Senator ROTH was able to get from CBO just 1 hour ago. In fairly strong terms, I want to say that CBO ought to be embarrassed by their efforts, they ought to be ashamed, and I want to tell you why.

First, my amendment is not based on a more costly House bill, as the CBO estimate claims.

It is based on the DOD subvention bill that Congress enacted and that DOD beneficiaries are already enjoying. So it is already out there. It is also based on a subvention proposal which moved through the Finance Committee, moved through the Senate, and then was killed in conference by presumably the House, dropped in conference by the House.

Second, the Congressional Budget Office claims that my amendment does not attempt to limit the erosion of what VA is paying now. That is not true. They cannot be allowed to get away with that. The VA currently carries a substantial burden for caring for medical-eligible veterans. There are substantial provisions in my amendment with Senator SPECTER, Senator KENNEDY and others that they will continue to do so. Every possible safeguard is littered throughout our amendment—for example, to protect the Medicare trust fund; to be selected as a pilot site. That is what I am suggesting in this amendment—only a pilot program, not full scale; just a pilot.

If the veterans who have Medicare took it to the VA system right now for health care, they would have to pay out of pocket because they can't get reimbursed under Medicare law. What I am trying to do is let them make the decision if they want to stay where they are or if they want to go to the VA hospital; let them make the decision. It is budget neutral.

But to get back, to be selected as a pilot site—I am not talking about the whole program; just a pilot site.

VA hospitals must receive certification that they have reliable cost-accounting systems in place to ensure that the VA will know that their current level of effort to provide health care to Medicare-eligible veterans is good. HHS can come in and squash it.

We also have exactly the same data-match requirement in my amendment that is in the DOD bill, which is in effect. Maybe the Congressional Budget Office didn't read this.

Also, just as a final backup position, in case in some way I am wrong, we have specifically in this amendment that Medicare payments to the VA are capped at $50 million a year. Medicare spent $207 billion a year last year. It will spend $470 billion 10 years from now, if we don't do something in the commission, which I just had to leave. But they are wrong to suggest what they do. That has to go on the Record.

I will simply conclude. I also say to the distinguished ranking member and the chairman that this has been through the process. This is a very, very good amendment, which everybody in my 15 years of experience in

this body, all the Medicare commissions, all the VA commissions, all the future health commissions that are replete—that have looked at this problem have all suggested we do Medicare subvention to give the veterans the choice of where they want to take their health care. Since they are already getting paid Medicare anyway at a private hospital, if perchance they were to go to a veterans hospital, that would be fine, because it might be geographically or more collegially helpful. Medicare would be paying 5 percent less to that VA hospital than they would be to wherever they are going now.

You tell me how we lose on that in the Medicare trust fund. We do nothing but win in terms of veterans. We have been discussing this for years. We discussed it in the past before the chairman of the committee corrected me on the year. He is quite right. I was quite wrong. But it was 2 years ago—not last year. DOD is doing this. I would simply ask that my colleagues vote against the amendment to table, because I think this is a truly significant amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has 4 minutes remaining.

Mr. WARNER. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

First, I ask unanimous consent that John Bradley, a detailee to the Committee on Veterans' Affairs be granted floor privileges for the duration of the Senate's consideration of S. 4.

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

Mr. WARNER. Mr. President, I find myself in a very awkward position in that I am going to support that—not today but eventually if this motion of the Senator from Virginia prevails. Then the committee of jurisdiction, the Finance Committee, presumably will take up this subject, and hopefully enact legislation, if not identical to those of the Senator from West Virginia, certainly to achieve the same goals.

What the Senator from Virginia is doing is very simple at this moment. That is, the Senate conducts business in a certain way. We respect the jurisdiction of our several committees. We respect the chairman of those committees to ask a fellow chairman such as myself to protect the jurisdiction of that committee and to allow the Finance Committee in this instance to do the legislation. That is the sole purpose of my motion to table, because someday the Senator from Virginia will cast a vote to achieve the goals that the Senator from West Virginia, I think, has very properly raised today as a matter of great need to our veterans.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, will the distinguished Senator yield to me for a moment?

Mr. WARNER. Indeed.

Mr. ROCKEFELLER. Mr. President, I understand what the distinguished chairman is saying. I would only counter that in the veterans committee we are rather accustomed to having our jurisdiction violated. And although, it has caused me to lose some sleep at night, I tend to make that a little less important as to what is happening to the veteran, in which case I think this is enormous consideration. I further point out that in this DOD bill already the VA and the veterans committee are already substantially compromised. I am not objecting to that, because there are substantial VA things in it. I think this is a powerfully important piece of legislation.

I appreciate the Senator's forbearance.

Mr. WARNER. Mr. President, I thank the Senator for those comments, my good friend and colleague. It is just that, indeed, Chairman SPECTER, and the Senator from West Virginia as ranking members have come over to address the issue. You made the decision. Chairman ROTH, likewise, examined this amendment, came over, and took a different position as chairman. Therefore, out of respect to him and the way that we try to accord jurisdiction to the committees, I continue to adhere to the motion to table, and ask Senators to support that motion.

I yield the time, and, Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from West Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 0, nays 100, as follows:

[Rollcall Vote No. 24 Leg.]

NAYS—100

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

The motion to lay on the table the amendment (No. 26) was rejected.

Mr. WARNER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order. The Senate will please come to order.

Mr. WARNER. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 26) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 23, AS MODIFIED

Mr. WARNER. Mr. President, it is the understanding of the Senator from Virginia that we are now to have a vote on the Harkin amendment No. 23, and there is 5 minutes reserved for the proponent and opponent, equally divided.

The PRESIDING OFFICER. The Senator from Virginia is correct. There is 5 minutes for debate, equally divided. The Senate is not in order, so I ask the Senator from Iowa to please withhold until the Senate comes to order.

The Senator from Iowa.

Mr. HARKIN. I thank the Chair.

Mr. President, in the bill there is an important provision that allows for $180 to be given to help the enlisted personnel who are on food stamps. We have people in uniform today who are eligible for food stamps. There is a $180 special allowance for military personnel in the bill, if they are eligible for food stamps.

All my amendment does is the following. I allows military personnel stationed overseas to receive the same $180 special allowance as those living in the United States. The bill only gives the allowance to people stationed here in the United States. It also streamlines the application process. Right now, if a soldier is eligible for food stamps, they have to go to the food stamp office and get a certification, come back to the military personnel office and then go back to the food stamp office. My amendment allows for a one-step process. With my amendment, all they have to do is go to the military to get certified.

Secondly, my amendment allows service people living off base to have the same $180 special allowance eligibility as those living on base, in other words, it disregards the housing allowance when determining eligibility.

Next, it allows eligible military families to receive the WIC Program if they

are overseas. Right now they can get the WIC Program only if they are stationed in the United States.

Mr. WELLSTONE. Mr. President, could we have order in the Chamber.

The PRESIDING OFFICER (Mr. BROWNBACK). Order in the Chamber.

The Senator from Iowa may proceed.

Mr. HARKIN. Mr. President, I heard some people say I am harming the WIC Program. I disagree. You tell me how fair it is for young soldiers here under the current rules. Military families living in the United States are eligible for WIC, and their wives are pregnant, they have kids, and they are getting the WIC Program, and all of a sudden they are sent overseas. Once they get overseas, they are no longer eligible for the WIC Program. Is that fair? They still have the same needs. All my amendment says is if they are eligible for the WIC Program here in America, they are eligible if they are shipped overseas. The DOD estimates maybe $10 or $20 million more per year in costs.

So that is all my amendment does, these modest but important improvement to the underlying bill. It says that if you are a member of the armed forces eligible for a $180 special allowance while stationed in America, you are eligible overseas. That is all it says. If you are eligible for WIC here, you are eligible overseas. It also makes the process streamlined so you do not have to go down to the food stamp office, back to the military, and back to the food stamp office just to qualify for the special allowance. And it treats military housing allowances, as far as eligibility, in a more fair manner. Under the current bill, if you are living on the base you would be eligible for the special subsistence allowance, but if you live off base you may not be eligible because you have the housing allowance. But you use that all up for rent, anyway. This is simply not fair.

I think this amendment, again, is one that tries to help people in the military in a fair way. I think it is embarrassing that we have people in the military who have to get food stamps. What this amendment does is end that once and for all, for all military personnel, who should be eligible for some special benefits.

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

Mr. WARNER. Mr. President, the Senator from Virginia intends to support the amendment. If there is any Senator desiring to use the time that I have remaining, which is 2 minutes, I would be happy to yield to that Senator.

Hearing no Senator, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on the amendment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LEVIN. He does not need a rollcall.

Mr. WARNER. Mr. President, may I inquire of the proponents? Do you desire a rollcall or not? You told me earlier you did.

Mr. HARKIN. No.

Mr. WARNER. Voice vote. Mr. President, proceed.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 23), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will please be in order.

AMENDMENT NO. 29

Mr. WARNER. The next vote is on or in relation to the Graham amendment, Mr. President. I do ask for the yeas and nays on this.

The PRESIDING OFFICER. Is the Senator requesting yeas and nays on the motion to table?

Mr. WARNER. That is correct, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second on this motion?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I ask unanimous consent that this be a 10-minute vote.

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

Mr. WARNER. Mr. President, I yield my time to the distinguished chairman of the Finance Committee, Mr. ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2½ minutes.

Mr. ROTH. Mr. President, I reluctantly rise to oppose the amendment offered by Senator GRAHAM. I say reluctantly because I strongly agree with the premise that it is important to pay for this important bill, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999.

However, Senator GRAHAM's amendment is not the way to do it. This is an authorization bill. It is not a tax bill. And if we adopt Senator GRAHAM's amendment, we turn the bill into a revenue bill. Neither Senator GRAHAM's amendment nor any other potential amendments will have come through the Finance Committee, which is the appropriate committee to review all tax legislation in the Senate.

But most importantly, adoption of the amendment would subject the entire bill to a blue slip from the House of Representatives, effectively dooming the important policies embodied in S. 4. So I say to those of you who support this important piece of legislation—and I do—I think it is important that we kill this amendment; otherwise, as I say, it becomes a tax bill and will be blue-slipped on the House side.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield such time as I have remaining to the distinguished Senator from Texas.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has 45 seconds.

Mr. GRAMM. Mr. President, I assume that there is going to be a vote on this amendment. Having listened to the Senator from Delaware, and recognizing that the Constitution says all revenue bills shall originate in the House, I make a constitutional point of order against this amendment.

The PRESIDING OFFICER. The point of order will have to wait until the Senator from Florida has used or yielded back all of his time.

Mr. GRAMM. All right. Fine.

The PRESIDING OFFICER. At which time the said point of order can be made.

Mr. GRAMM. OK.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 30 seconds.

Mr. GRAHAM. Mr. President, we are about to take our first legislative action of the 106th Congress. Many of us who ran for election or reelection last November said that one of our greatest sources of pride was that after 30 years of deficits and a Federal debt which had reached close to $6 trillion, that we had finally exercised the fiscal discipline to achieve a balanced Federal budget.

What are we about to do with the first vote of this 106th Congress? We are about to pass a bill which will have an unfunded liability of $16.5 billion. That is $16.5 billion not subject to appropriations. That is $16.5 billion of direct authorized spending in this legislation plus revenue reductions that are incident to this legislation.

Mr. President, that is not the message that we want to send to the American people—that we are going to add a further indebtedness to the Federal Government, that we are going to start down the slippery slope to more deficits and more additions to our national debt.

We do not want to tell our service men and women that we have given them these benefits, which we need to do, but that we were unwilling to pay for them, so that for every dollar we give them, 34 cents is unfunded. That is not fair either to the taxpayers or to the service men and women who we are trying to convince that we are going to substantially improve their service conditions so that they will join up and stay and serve the Nation.

Mr. President, what I have proposed is a simple proposition. If we are going to make this offer to our service personnel, let's pay for it. I have proposed a payment of four items. Three are tax measures which have been passed by this Congress and which have lapsed. This would renew those measures. Two of them relate to the Superfund Program, one of them to the oilspill liability, the fourth is a measure which was

included in a bill that Senator COVERDELL brought to us last year, which passed the Senate, which makes a change in the carry-over provision for foreign tax credit.

Those four items together will raise the funds necessary to convert this blank check into a fully funded check, be responsible to the American taxpayers, to the service men and women and, particularly, be responsible to the American people who are looking to us to see if we can maintain the fiscal discipline that we so recently acquired. This is a test of this Congress.

Mr. WARNER. I yield to the Senator from Texas.

Mr. GRAMM. Mr. President, the amendment before us contains several major changes to the Tax Code, changes that affect the competitiveness of America in the world market, changes that represent fundamental modifications to the Tax Code.

I realize that we have taken a holiday from reality here in spending billions and billions of dollars, but to come to the floor of the Senate in violation of the Constitution and to start rewriting the Tax Code when the Constitution says that tax bills shall originate in the House is taking this whole process too far.

CONSTITUTIONAL POINT OF ORDER

Mr. GRAMM. Mr. President, I make a constitutional point of order against this amendment in that it violates the Constitution, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the Senate's precedents, a constitutional point of order must be submitted to the Senate. The question is, Is the point of order well taken?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 80, nays 20, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—80

Abraham	Durbin	Mack
Allard	Edwards	McCain
Ashcroft	Enzi	McConnell
Baucus	Feinstein	Mikulski
Bennett	Fitzgerald	Murkowski
Biden	Frist	Murray
Bingaman	Gorton	Nickles
Bond	Gramm	Reid
Boxer	Grams	Roberts
Breaux	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sarbanes
Burns	Hatch	Schumer
Byrd	Helms	Sessions
Campbell	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Kerrey	Specter
Conrad	Kerry	Stevens
Coverdell	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lautenberg	Thurmond
DeWine	Leahy	Voinovich
Dodd	Lieberman	Warner
Domenici	Lott	Wyden
Dorgan	Lugar	

NAYS—20

Akaka	Hollings	Moynihan
Bayh	Inouye	Reed
Bryan	Johnson	Robb
Daschle	Kennedy	Rockefeller
Feingold	Kohl	Torricelli
Graham	Levin	Wellstone
Harkin	Lincoln	

The PRESIDING OFFICER. On this vote, the yeas are 80, the nays are 20. The constitutional point of order is well-taken; therefore, the amendment falls.

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

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. GRAHAM. The specific nature of a constitutional point of order was that the amendment that I had offered would have effected taxation and therefore required that this measure be originated in the House of Representatives, is that correct?

The PRESIDING OFFICER. Would the Senator from Texas care to clarify his point of order?

Mr. GRAMM. The point of order was a constitutional point of order made under the provisions of article I, which require that revenue bills originate in the House. The Senator's amendment changed three provisions of the Tax Code and therefore violated the Constitution. As the Chair ruled, under precedent, the Chair does not rule as to whether order stands. Therefore, we voted 80–20 to sustain that point of order.

Mr. GRAHAM. Mr. President, further inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAHAM. Would that indicate that if there were in the underlying bill that is now before the Senate also measures which effected revenues that the bill would similarly be subject to a constitutional point of order?

The PRESIDING OFFICER. The point of order is just against the amendment and not against the entire bill. That is why the amendment fails. It doesn't apply to the rest of the bill. The order was raised against the amendment.

Mr. GRAHAM. Mr. President, the question I asked was, would a constitutional point of order be available against the bill because of provisions which effected revenue?

Mr. WARNER. Mr. President, I would like to be heard on that.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I addressed that question to the chairman of the Finance Committee, Senator ROTH. He assured me that it did not have any provision in there that would be subject to that question.

Mr. GRAHAM. Mr. President, I have a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAHAM. The letter from the Congressional Budget Office, submitted to Chairman WARNER on February 12, 1999, on page 9, indicates that there has been an effect in the change of receipts as a result of provisions which are in the underlying bill. The question is, would that make the underlying bill subject to the same constitutional point of order as effecting revenue?

The PRESIDING OFFICER. I am advised by the Parliamentarian that, under the previous order, we are at the point of third reading and passage of the bill without intervening action at this point in time, which would bar a point of order being raised at this point in time.

Mr. GRAHAM. Point of order, Mr. President. There was also, I believe, no provision in the unanimous-consent agreement we accepted that would have sanctioned the constitutional point of order against the amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the question has been placed to the Chair, and I understand the Chair is ready to rule.

The PRESIDING OFFICER. Yes. Under the previous agreement that was in existence, the point of order was allowed for and was not barred against the amendments. The previous order provided that there would not be intervening action between the vote on the final amendment and final passage. Therefore, the point of order at this point in time will not be allowed, and it was in order for the prior time during the amendment.

Mr. GRAHAM. Further parliamentary inquiry, Mr. President. Would a motion asking unanimous consent that a constitutional point of order be available be in order?

The PRESIDING OFFICER. If the Senator wishes to ask unanimous consent for such a point of order, it would be in order.

Mr. GRAHAM. Mr. President, I ask unanimous consent that I be allowed to raise a constitutional point of order.

Mr. WARNER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMM. Regular order.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill, as amended.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage of the bill, as amended. The yeas and nays have been ordered. The Clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''aye.''

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—91

Abraham	Biden	Bunning
Akaka	Bingaman	Burns
Allard	Bond	Byrd
Ashcroft	Boxer	Campbell
Baucus	Breaux	Chafee
Bayh	Brownback	Cleland
Bennett	Bryan	Cochran
Collins	Hutchison	Reid
Conrad	Inhofe	Robb
Coverdell	Inouye	Roberts
Craig	Jeffords	Rockefeller
Crapo	Johnson	Roth
Daschle	Kennedy	Santorum
DeWine	Kerrey	Sarbanes
Domenici	Kerry	Schumer
Dorgan	Kohl	Sessions
Edwards	Kyl	Shelby
Enzi	Landrieu	Smith (NH)
Feinstein	Lautenberg	Smith (OR)
Fitzgerald	Leahy	Snowe
Frist	Levin	Specter
Gorton	Lincoln	Stevens
Gramm	Lott	Thomas
Grams	Lugar	Thompson
Grassley	Mack	Thurmond
Hagel	McCain	Torricelli
Harkin	McConnell	Warner
Hatch	Mikulski	Wellstone
Helms	Murkowski	Wyden
Hollings	Murray	
Hutchinson	Reed	

NAYS—8

Dodd	Graham	Nickles
Durbin	Gregg	Voinovich
Feingold	Lieberman	

NOT VOTING—1

Moynihan

The bill (S. 4), as amended, was passed, as follows:

S. 4

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 ''Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999''.

TITLE I—PAY AND ALLOWANCES

SEC. 101. FISCAL YEAR 2000 INCREASE AND RESTRUCTURING OF BASIC PAY.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 2000 shall not be made.

(b) JANUARY 1, 2000, INCREASE IN BASIC PAY.—Effective on January 1, 2000, the rates of monthly basic pay for members of the uniformed services shall be increased by 4.8 percent.

(c) BASIC PAY REFORM.—Effective on July 1, 2000, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS [1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0–10 [2]	$0.00	$0.00	$0.00	$0.00	$0.00
0–9	0.00	0.00	0.00	0.00	0.00
0–8	6,594.30	6,810.30	6,953.10	6,993.30	7,171.80
0–7	5,479.50	5,851.80	5,851.50	5,894.40	6,114.60
0–6	4,061.10	4,461.60	4,754.40	4,754.40	4,772.40
0–5	3,248.40	3,813.90	4,077.90	4,127.70	4,291.80
0–4	2,737.80	3,333.90	3,556.20	3,606.04	3,812.40
0–3 [3]	2,544.00	2,884.20	3,112.80	3,364.80	3,525.90
0–2 [3]	2,218.80	2,527.20	2,910.90	3,000.00	3,071.10
0–1 [3]	1,926.30	2,004.90	2,423.10	2,423.10	2,423.10
	Over 8	Over 10	Over 12	Over 14	Over 16
0–10 [2]	$0.00	$0.00	$0.00	$0.00	$0.00
0–9	0.00	0.00	0.00	0.00	0.00
0–8	7,471.50	7,540.80	7,824.60	7,906.20	8,150.10
0–7	6,282.00	6,475.80	6,669.00	6,863.10	7,471.50
0–6	4,976.70	5,004.00	5,004.00	5,169.30	5,791.20
0–5	4,291.80	4,420.80	4,659.30	4,971.90	5,286.00
0–4	3,980.40	4,251.50	4,464.00	4,611.00	4,758.90
0–3 [3]	3,702.60	3,850.20	4,040.40	4,139.10	4,139.10
0–2 [3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0–1 [3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10
	Over 18	Over 20	Over 22	Over 24	Over 26
0–10 [2]	$0.00	$10,655.10	$10,707.60	$10,930.20	$11,318.40
0–9	0.00	9,319.50	9,453.60	9,647.70	9,986.40
0–8	8,503.80	8,830.20	9,048.00	9,048.00	9,048.00
0–7	7,985.40	7,985.40	7,985.40	7,985.40	8,025.60
0–6	6,086.10	6,381.30	6,549.00	6,719.10	7,049.10
0–5	5,436.00	5,583.60	5,751.90	5,751.90	5,751.90
0–4	4,808.70	4,808.70	4,808.70	4,808.70	4,808.70
0–3 [3]	4,139.10	4,139.10	4,139.10	4,139.10	4,139.10
0–2 [3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0–1 [3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10

[1] Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

[2] While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be $12,441.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

[3] Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0–3E	$0.00	$0.00	$0.00	$3,364.80	$3,525.90
0–2E	0.00	0.00	0.00	3,009.00	3,071.10
0–1E	0.00	0.00	0.00	2,423.10	2,588.40
	Over 8	Over 10	Over 12	Over 14	Over 16
0–3E	$3,702.60	$3,850.20	$4,040.40	$4,200.30	$4,291.80
0–2E	3,168.60	3,333.90	3,461.40	3,556.20	3,556.20
0–1E	2,683.80	2,781.30	2,877.60	3,009.00	3,009.00
	Over 18	Over 20	Over 22	Over 24	Over 26
0–3E	$4,416.90	$4,416.90	$4,416.90	$4,416.90	$4,416.90

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–2E	3,556.20	3,556.20	3,556.20	3,556.20	3,556.20
O–1E	3,009.00	3,009.00	3,009.00	3,009.00	3,009.00

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	2,592.00	2,788.50	2,868.60	2,947.50	3,083.40
W–3	2,355.90	2,555.40	2,555.40	2,588.40	2,694.30
W–2	2,063.40	2,232.60	2,232.60	2,305.80	2,423.10
W–1	1,719.00	1,971.00	1,971.00	2,135.70	2,232.60
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,217.20	3,352.80	3,485.10	3,622.20	3,753.60
W–3	2,814.90	2,974.20	3,071.10	3,177.00	3,298.20
W–2	2,555.40	2,852.60	2,749.80	2,844.30	2,949.00
W–1	2,332.80	2,433.30	2,533.20	2,634.00	2,734.80
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$4,475.10	$4,628.70	$4,782.90	$4,937.40
W–4	3,888.00	4,019.00	4,155.60	4,289.70	4,427.10
W–3	3,418.50	3,539.10	3,659.40	3,780.00	3,900.90
W–2	3,058.40	3,163.80	3,270.90	3,378.30	3,378.30
W–1	2,835.00	2,910.90	2,910.90	2,910.90	2,910.90

ENLISTED MEMBERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9 [4]	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	1,765.80	1,927.80	2,001.00	2,073.00	2,147.70
E–6	1,518.90	1,678.20	1,752.60	1,824.30	1,899.30
E–5	1,332.60	1,494.00	1,566.00	1,640.40	1,714.50
E–4	1,242.90	1,373.10	1,447.20	1,520.10	1,593.90
E–3	1,171.50	1,260.60	1,334.10	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E–1	[5] 1,005.60	1,005.60	1,005.60	1,005.60	1,005.60
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9 [4]	$0.00	$3,015.30	$3,083.40	$3,169.80	$3,271.50
E–8	2,528.40	2,601.60	2,669.70	2,751.60	2,840.10
E–7	2,220.90	2,294.10	2,367.30	2,439.30	2,514.00
E–6	1,973.10	2,047.20	2,118.60	2,191.50	2,244.60
E–5	1,789.50	1,861.50	1,936.20	1,936.20	1,936.20
E–4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E–3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E–1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9 [4]	$3,373.20	$3,473.40	$3,609.30	$3,744.00	$3,915.80
E–8	2,932.50	3,026.10	3,161.10	3,295.50	3,483.60
E–7	2,588.10	2,660.40	2,787.60	2,926.20	3,134.40
E–6	2,283.30	2,283.30	2,285.70	2,285.70	2,285.70
E–5	1,936.20	1,936.20	1,936.20	1,936.20	1,936.20
E–4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E–3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,123.20	1,127.40
E–1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60

[4] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay for this grade is $4,701.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[5] In the case of members in the grade E–1 who have served less than 4 months on active duty, basic pay is $930.30.

SEC. 102. PAY INCREASES FOR FISCAL YEARS AFTER FISCAL YEAR 2000.

(a) ECI+0.5 PERCENT INCREASE FOR ALL MEMBERS.—Section 1009(c) of title 37, United States Code, is amended to read as follows:

''(c) ECI+0.5 PERCENT INCREASE FOR ALL MEMBERS.—Subject to subsection (d), an adjustment taking effect under this section during a fiscal year shall provide all eligible members with an increase in the monthly basic pay by the percentage equal to the sum of one percent plus the percentage calculated as provided under section 5303(a) of title 5 (without regard to whether rates of pay under the statutory pay systems are actually increased during such fiscal year under that section by the percentage so calculated).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2000.

SEC. 103. SPECIAL SUBSISTENCE ALLOWANCE.

(a) ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 402 the following new section:

''§ 402a. Special subsistence allowance

''(a) ENTITLEMENT.—Upon the application of an eligible member of a uniformed service described in subsection (b)(1), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance, as determined by the Secretary.

''(b) COVERED MEMBERS.—(1) A member referred to subsection (a) is an enlisted member in pay grade E–5 or below.

''(2) For the purposes of this section, a member shall be considered as being eligible to receive food stamp assistance if the household of the member meets the income standards of eligibility established under section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), not taking into account the special subsistence allowance that may be payable to the member under this section and any allowance that is payable to the member under section 403 or 404a of this title.

''(c) TERMINATION OF ENTITLEMENT.—The entitlement of a member to receive payment

of a special subsistence allowance terminates upon the occurrence of any of the following events:

''(1) Termination of eligibility for food stamp assistance.

''(2) Payment of the special subsistence allowance for 12 consecutive months.

''(3) Promotion of the member to a higher grade.

''(4) Transfer of the member in a permanent change of station.

''(d) REESTABLISHED ENTITLEMENT.—(1) After a termination of a member's entitlement to the special subsistence allowance under subsection (c), the Secretary concerned shall resume payment of the special subsistence allowance to the member if the Secretary determines, upon further application of the member, that the member is eligible to receive food stamps.

''(2) Payments resumed under this subsection shall terminate under subsection (c) upon the occurrence of an event described in that subsection after the resumption of the payments.

''(3) The number of times that payments are resumed under this subsection is unlimited.

''(e) DOCUMENTATION OF ELIGIBILITY.—A member of the uniformed services applying for the special subsistence allowance under this section shall furnish the Secretary concerned with such evidence of the member's eligibility for food stamp assistance as the Secretary may require in connection with the application.

''(f) AMOUNT OF ALLOWANCE.—The monthly amount of the special subsistence allowance under this section is $180.

''(g) RELATIONSHIP TO BASIC ALLOWANCE FOR SUBSISTENCE.—The special subsistence allowance under this section is in addition to the basic allowance for subsistence under section 402 of this title.

''(h) FOOD STAMP ASSISTANCE DEFINED.—In this section, the term 'food stamp assistance' means assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

''(i) TERMINATION OF AUTHORITY.—No special subsistence allowance may be made under this section for any month beginning after September 30, 2004.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 402 the following:

''402a. Special subsistence allowance.''.

(b) EFFECTIVE DATE.—Section 402a of title 37, United States Code, shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act.

(c) ANNUAL REPORT.—(1) Not later than March 1 of each year after 1999, the Secretary of Defense shall submit to Congress a report setting forth the number of members of the uniformed services who are eligible for assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(2) In preparing the report, the Secretary shall consult with the Secretary of Transportation (with respect to the Coast Guard), who shall provide the Secretary of Defense with any information that the Secretary determines necessary to prepare the report.

(3) No report is required under this section after March 1, 2004.

SEC. 104. INCREASED TUITION ASSISTANCE FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION OR SIMILAR OPERATION.

(a) INAPPLICABILITY OF LIMITATION ON AMOUNT.—Section 2007(a) of title 10, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) in the case of a member deployed outside the United States in support of a contingency operation or similar operation, all of the charges may be paid while the member is so deployed.''.

(b) INCREASED AUTHORITY SUBJECT TO APPROPRIATIONS.—The authority to pay additional tuition assistance under paragraph (4) of section 2007(a) of title 10, United States Code, as added by subsection (a), may be exercised only to the extent provided for in appropriations Acts.

SEC. 105. INCREASE IN RATE OF DIVING DUTY SPECIAL PAY.

(a) INCREASE.—Section 304(b) of title 37, United States Code, is amended—

(1) by striking ''$200'' and inserting ''$240''; and

(2) by striking ''$300'' and inserting ''$340''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to special pay paid under section 304 of title 37, United States Code, for months beginning on or after that date.

SEC. 106. INCREASE IN MAXIMUM AMOUNT AUTHORIZED FOR REENLISTMENT BONUS FOR ACTIVE MEMBERS.

(a) INCREASE IN MAXIMUM AMOUNT.—Section 308(a)(2)(B) of title 37, United States Code, is amended by striking ''$45,000'' and inserting ''$60,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to reenlistments and extensions of enlistments taking effect on or after that date.

SEC. 107. INCREASE IN ENLISTMENT BONUS FOR MEMBERS WITH CRITICAL SKILLS.

(a) INCREASE.—Section 308a(a) of title 37, United States Code, is amended in the first sentence by striking ''$12,000'' and inserting ''$20,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect enlistments and extensions of enlistments taking effect on or after that date.

SEC. 108. INCREASE IN SPECIAL PAY AND BONUSES FOR NUCLEAR-QUALIFIED OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(a) of title 37, United States Code, is amended by striking ''$15,000'' and inserting ''$25,000''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(a)(1) of title 37, United States Code, is amended by striking ''$10,000'' and inserting ''$20,000''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUSES.—Section 312c of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking ''$12,000'' and inserting ''$22,000''; and

(2) in subsection (b)(1), by striking ''$5,500'' and inserting ''$10,000''.

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on October 1, 1999.

(2) The amendments made by subsections (a) and (b) shall apply with respect to agreements accepted under section 312(a) and 312b(a), respectively, of title 37, United States Code, on or after October 1, 1999.

(3) The amendments made by subsection (c) shall apply with respect to nuclear service years beginning on or after October 1, 1999.

SEC. 109. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR FOREIGN LANGUAGE PROFICIENCY PAY.

(a) INCREASE IN MAXIMUM MONTHLY RATE.—Section 316(b) of title 37, United States Code, is amended by striking ''$100'' and inserting ''$300''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of title 37, United States Code, for months beginning on or after that date.

SEC. 110. CAREER ENLISTED FLYER INCENTIVE PAY.

(a) INCENTIVE PAY AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301e the following new section 301f:

''§ 301f. Incentive pay: career enlisted flyers

''(a) PAY AUTHORIZED.—An enlisted member described in subsection (b) may be paid career enlisted flyer incentive pay as provided in this section.

''(b) ELIGIBLE MEMBERS.—An enlisted member referred to in subsection (a) is an enlisted member of the armed forces who—

''(1) is entitled to basic pay under section 204 of this title or is entitled to compensation under paragraph (1) or (2) of section 206(a) of this title;

''(2) holds a military occupational specialty or military rating designated as a career enlisted flyer specialty or rating by the Secretary concerned in regulations prescribed under subsection (f) and continues to be proficient in the skills required for that specialty or rating, or is in training leading to the award of such a specialty or rating; and

''(3) is qualified for aviation service.

''(c) MONTHLY PAYMENT.—(1) Career enlisted flyer incentive pay may be paid a member referred to in subsection (b) for each month in which the member performs aviation service that involves frequent and regular performance of operational flying duty by the member.

''(2)(A) Career enlisted flyer incentive pay may be paid a member referred to in subsection (b) for each month in which the member performs service, without regard to whether or the extent to which the member performs operational flying duty during the month, as follows:

''(i) In the case of a member who has performed at least 6, and not more than 15, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 72 months if the member so performed in at least that number of months before completing the member's first 10 years of performance of aviation service.

''(ii) In the case of a member who has performed more than 15, and not more than 20, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 108 months if the member so performed in at least that number of months before completing the member's first 15 years of performance of aviation service.

''(iii) In the case of a member who has performed more than 20, and not more than 25, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 168 months if the member so performed in at least that number of months before completing the member's first 20 years of performance of aviation service.

''(B) The Secretary concerned, or a designee of the Secretary concerned not below the level of personnel chief of the armed force concerned, may reduce the minimum number of months of frequent and regular performance of operational flying duty applicable in the case of a particular member under—

''(i) subparagraph (A)(i) to 60 months;

''(ii) subparagraph (A)(ii) to 96 months; or

''(iii) subparagraph (A)(iii) to 144 months.

''(C) A member may not be paid career enlisted flyer incentive pay in the manner provided under subparagraph (A) after the member has completed 25 years of aviation service.

''(d) MONTHLY RATES.—(1) The monthly rate of any career enlisted flyer incentive pay paid under this section to a member on active duty shall be prescribed by the Secretary concerned, but may not exceed the following:

''Years of aviation service	Monthly rate
4 or less	$150
Over 4	$225
Over 8	$350
Over 14	$400.

''(2) The monthly rate of any career enlisted flyer incentive pay paid under this section to a member of a reserve component for each period of inactive-duty training during which aviation service is performed shall be equal to 1/30 of the monthly rate of career enlisted flyer incentive pay provided under paragraph (1) for a member on active duty with the same number of years of aviation service.

''(e) NONAPPLICABILITY TO MEMBERS RECEIVING HAZARDOUS DUTY INCENTIVE PAY OR SPECIAL PAY FOR DIVING DUTY.—A member receiving incentive pay under section 301(a) of this title or special pay under section 304 of this title may not be paid special pay under this section for the same period of service.

''(f) REGULATIONS.—The Secretary concerned shall prescribe regulations for the administration of this section. The regulations shall include the following:

''(1) Definitions of the terms 'aviation service' and 'frequently and regularly performed operational flying duty' for purposes of this section.

''(2) The military occupational specialties or military rating, as the case may be, that are designated as career enlisted flyer specialties or ratings, respectively, for purposes of this section.

''(g) DEFINITION.—In this section, the term 'operational flying duty' means—

''(1) flying performed under competent orders while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned; and

''(2) flying performed by members in training that leads to the award of a military occupational specialty or rating referred to in subsection (b)(2).''.

(2) The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by inserting after the item relating to section 301e the following new item:

''301f. Incentive pay; career enlisted flyers.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

(c) SAVE PAY PROVISION.—In the case of an enlisted member of a uniformed service who is a designated career enlisted flyer entitled to receive hazardous duty incentive pay under section 301(b) or 301(c)(2)(A) of title 37, United States Code, as of October 1, 1999, the member shall be entitled from that date to payment of incentive pay at the monthly rate that is the higher of—

(1) the monthly rate of incentive pay authorized by such section 301(b) or 301(c)(2)(A) as of September 30, 1999; or

(2) the monthly rate of incentive pay authorized by section 301f of title 37, United States Code, as added by subsection (a).

SEC. 111. RETENTION BONUS FOR SPECIAL WARFARE OFFICERS EXTENDING PERIODS OF ACTIVE DUTY.

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301f, as added by section 110(a) of this Act, the following new section:

''§ 301g. Special pay: special warfare officers extending period of active duty

''(a) BONUS AUTHORIZED.—A special warfare officer described in subsection (b) who executes a written agreement to remain on active duty in special warfare service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

''(b) COVERED OFFICERS.—A special warfare officer referred to in subsection (a) is an officer of a uniformed service who—

''(1) is qualified for a military occupational specialty or designator identified by the Secretary concerned as a special warfare military occupational specialty or designator and is serving in a position for which that specialty or designator is authorized;

''(2) is in pay grade O–3, or is in pay grade O–4 and is not on a list of officers recommended for promotion, at the time the officer applies for an agreement under this section;

''(3) has completed at least 6, but not more than 14, years of active commissioned service; and

''(4) has completed any service commitment incurred to be commissioned as an officer.

''(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $15,000 for each year covered by the written agreement.

''(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus payable under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 14 years of active commissioned service.

''(e) PAYMENT.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid—

''(1) in a lump sum equal to the amount of half the total amount payable under the agreement at the time the agreement is accepted by the Secretary concerned followed by payments of equal annual installments on the anniversary of the acceptance of the agreement until the payment in full of the balance of the amount that remains payable under the agreement after the payment of the lump sum amount under this paragraph; or

''(2) in graduated annual payments under regulations prescribed by the Secretary concerned with the first payment being payable at the time the agreement is accepted by the Secretary concerned and subsequent payments being payable on the anniversaries of the acceptance of the agreement.

''(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

''(g) REPAYMENT.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty in special warfare service as specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid the officer under this section.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

''(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section, including the definition of the term 'special warfare service' for purposes of this section. Regulations prescribed by the Secretary of a military department under this section shall be subject to the approval of the Secretary of Defense.''.

(2) The table of sections at the beginning of chapter 5 of title 37, United States Code, as amended by section 110(a) of this Act, is amended by inserting after the item relating to section 301f the following new item:

''301g. Special pay: special warfare officers extending period of active duty.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 112. RETENTION BONUS FOR SURFACE WARFARE OFFICERS EXTENDING PERIODS OF ACTIVE DUTY.

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301g, as added by section 111(a) of this Act, the following new section:

''§ 301h. Special pay: surface warfare officers extending period of active duty

''(a) SPECIAL PAY AUTHORIZED.—(1) A surface warfare officer described in subsection (b) who executes a written agreement described in paragraph (2) may, upon the acceptance of the agreement by the Secretary of the Navy, be paid a retention bonus as provided in this section.

''(2) An agreement referred to in paragraph (1) is an agreement in which the officer concerned agrees—

''(A) to remain on active duty for at least two years and through the tenth year of active commissioned service; and

''(B) to complete tours of duty to which the officer may be ordered during the period covered by subparagraph (A) as a department head afloat.

''(b) COVERED OFFICERS.—A surface warfare officer referred to in subsection (a) is an officer of the Regular Navy or Naval Reserve on active duty who—

''(1) is designated and serving as a surface warfare officer;

''(2) is in pay grade O–3 at the time the officer applies for an agreement under this section;

''(3) has been selected for assignment as a department head on a surface ship;

''(4) has completed at least four, but not more than eight, years of active commissioned service; and

''(5) has completed any service commitment incurred to be commissioned as an officer.

''(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $15,000 for each year covered by the written agreement.

''(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus payable under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 10 years of active commissioned service.

''(e) PAYMENT.—Upon acceptance of a written agreement under subsection (a) by the Secretary of the Navy, the total amount payable pursuant to the agreement becomes fixed and may be paid—

''(1) in a lump sum equal to the amount of half the total amount payable under the agreement at the time the agreement is accepted by the Secretary followed by payments of equal annual installments on the anniversary of the acceptance of the agreement until the payment in full of the balance of the amount that remains payable under the agreement after the payment of the lump sum amount under this paragraph; or

''(2) in equal annual payments with the first payment being payable at the time the agreement is accepted by the Secretary and subsequent payments being payable on the anniversaries of the acceptance of the agreement.

''(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

''(g) REPAYMENT.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary of the Navy may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owned to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

''(h) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by inserting after the item relating to section 301g, as added by section 111(a) of this Act, the following new item:

''301h. Special pay: surface warfare officers extending period of active duty.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 113. AVIATION CAREER OFFICER SPECIAL PAY.

(a) PERIOD OF AUTHORITY.—Subsection (a) of section 301b of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''AUTHORIZED.—'';

(2) by striking ''during the period beginning on January 1, 1989, and ending on December 31, 1999,'' and inserting ''during the period described in paragraph (2),''; and

(3) adding at the end the following:

''(2) Paragraph (1) applies with respect to agreements executed during the period beginning on the first day of the first month that begins on or after the date of the enactment of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 and ending on December 31, 2004.''.

(b) REPEAL OF LIMITATION TO CERTAIN YEARS OF CAREER AVIATION SERVICE.—Subsection (b) of such section is amended—

(1) by striking paragraph (5);

(2) by inserting ''and'' at the end of paragraph (4); and

(3) by redesignating paragraph (6) as paragraph (5).

(c) REPEAL OF LOWER ALTERNATIVE AMOUNT FOR AGREEMENT TO SERVE FOR 3 OR FEWER YEARS.—Subsection (c) of such section is amended by striking ''than—'' and all that follows and inserting ''than $25,000 for each year covered by the written agreement to remain on active duty.''.

(d) PRORATION AUTHORITY FOR COVERAGE OF INCREASED PERIOD OF ELIGIBILITY.—Subsection (d) of such section is amended by striking ''14 years of commissioned service'' and inserting ''25 years of aviation service''.

(e) TERMINOLOGY.—Such section is further amended—

(1) in subsection (f), by striking ''A retention bonus'' and inserting ''Any amount''; and

(2) in subsection (i)(1), by striking ''retention bonuses'' in the first sentence and inserting ''special pay under this section''.

(f) REPEAL OF CONTENT REQUIREMENTS FOR ANNUAL REPORT.—Subsection (i)(1) of such section is further amended by striking the second sentence.

(g) TECHNICAL AMENDMENT.—Subsection (g)(3) of such section if amended by striking the second sentence.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 114. THREE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 1999,'' and inserting ''December 31, 2002,''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking ''any fiscal year beginning before October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999'' and inserting ''the 15-month period beginning on October 1, 1998, and ending on December 31, 1999, and any year beginning after December 31, 1999, and ending before January 1, 2003''.

SEC. 115. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking ''January 1, 2000'' and inserting in lieu thereof ''January 1, 2003''.

SEC. 116. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting in lieu thereof ''December 31, 2002''.

SEC. 117. SENSE OF CONGRESS REGARDING PARITY BETWEEN ADJUSTMENTS IN MILITARY AND CIVIL SERVICE PAY.

(a) FINDINGS.—Congress makes the following findings:

(1) Members of the uniformed services of the United States and civilian employees of the United States make significant contributions to the general welfare of the United States.

(2) Increases in the levels of pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall levels of pay of workers in the private sector so that there is now up to a 30 percent gap between the compensation levels of Federal civilian employees and the compensation levels of private sector workers and a 9 to 14 percent gap between the compensation levels of members of the uniformed services and the compensation levels of private sector workers.

(3) In almost every year of the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

SEC. 118. ENTITLEMENT OF RESERVES NOT ON ACTIVE DUTY TO RECEIVE SPECIAL DUTY ASSIGNMENT PAY.

(a) AUTHORITY.—Section 307(a) of title 37, United States Code, is amended by inserting after ''is entitled to basic pay'' in the first sentence the following: '', or is entitled to compensation under section 206 of this title in the case of a member of a reserve component not on active duty,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins

on or after the date of the enactment of this Act.

SEC. 119. SENSE OF THE SENATE REGARDING USE OF EXTENSION OF TIME TO FILE TAX RETURNS FOR MEMBERS OF UNIFORMED SERVICES ON DUTY ABROAD.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Service provides a 2-month extension of the deadline for filing tax returns for members of the uniformed services who are in an area outside the United States or the Commonwealth of Puerto Rico for a tour of duty which includes the date for filing tax returns;

(2) any taxpayer using this 2-month extension who owes additional tax must pay the tax on or before the regular filing deadline;

(3) those who use the 2-month extension and wait to pay the additional tax at the time of filing are charged interest from the regular filing deadline, and may also be required to pay a penalty; and

(4) it is fundamentally unfair to members of the uniformed services who make use of this extension to require them to pay penalties and interest on the additional tax owed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the 2-month extension of the deadline for filing tax returns for certain members of the uniformed services provided in Internal Revenue Service regulations should be codified; and

(2) eligible members of the uniformed services should be able to make use of the extension without accumulating interest or penalties.

SEC. 120. IMPLEMENTATION OF THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) CLARIFICATION OF BENEFITS RESPONSIBILITY.—Subsection (a) of section 1060a of title 10, United States Code, is amended by striking ''may carry out a program to provide special supplemental food benefits'' and inserting ''shall carry out a program to provide supplemental foods and nutrition education''.

(b) RELATIONSHIP TO WIC PROGRAM.—Subsection (b) of such section is amended to read as follows:

''(b) FEDERAL PAYMENTS.—For the purpose of providing supplemental foods under the program required under subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense for each of fiscal years 1999 through 2003, out of funds available for such fiscal year pursuant to the authorization of appropriations under section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)), $10,000,000 plus such additional amount as is necessary to provide supplemental foods under the program for such fiscal year. The Secretary of Defense shall use funds available for the Department of Defense to provide nutrition education and to pay for costs for nutrition services and administration under the program.''.

(c) PROGRAM ADMINISTRATION.—Subsection (c)(1)(A) of such section is amended by adding at the end the following: ''In the determining of eligibility for the program benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) shall be considered eligible for the duration of the certification period under that program.''.

(d) NUTRITIONAL RISK STANDARDS.—Subsection (c)(1)(B) of such section is amended by inserting ''and nutritional risk standards'' after ''income eligibility standards''.

(e) DEFINITIONS.—Subsection (f) of such section is amended by adding at the end the following:

''(4) The terms 'costs for nutrition services and administration', 'nutrition education' and 'supplemental foods' have the meanings given the terms in paragraphs (4), (7), and (14), respectively, of section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).''.

(f) REPORT.—Not later than March 1, 2001, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall submit to Congress a report on the implementation of the special supplemental food program required under section 1060a of title 10, United States Code. The report shall include a discussion of whether the amount required to be provided by the Secretary of Agriculture for supplemental foods under subsection (b) of that section is adequate for the purpose and, if not, an estimate of the amount necessary to provide supplemental foods under the program.

TITLE II—RETIREMENT BENEFITS

SEC. 201. RETIRED PAY OPTIONS FOR PERSONNEL ENTERING UNIFORMED SERVICES ON OR AFTER AUGUST 1, 1986.

(a) REDUCED RETIRED PAY ONLY FOR MEMBERS ELECTING 15-YEAR SERVICE BONUS.—(1) Paragraph (2) of section 1409(b) of title 10, United States Code, is amended by inserting after ''July 31, 1986,'' the following: ''has elected to receive a bonus under section 318 of title 37,''.

(2)(A) Paragraph (2)(A) of section 1401a(b) of title 10, United States Code, is amended by striking ''The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986,'' and inserting ''Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member''.

(B) Paragraph (3) of such section 1401a(b) is amended by inserting after ''August 1, 1986,'' the following: ''and has elected to receive a bonus under section 318 of title 37,''.

(3) Section 1410 of title 10, United States Code, is amended by inserting after ''August 1, 1986,'' the following: ''who has elected to receive a bonus under section 318 of title 37,''.

(b) OPTIONAL LUMP-SUM BONUS AT 15 YEARS OF SERVICE.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 318. Special pay: 15-year service bonus elected by members entering on or after August 1, 1986

''(a) PAYMENT OF BONUS.—The Secretary concerned shall pay a bonus to a member of a uniformed service who is eligible and elects to receive the bonus under this section.

''(b) ELIGIBILITY FOR BONUS.—A member of a uniformed service serving on active duty is eligible to receive a bonus under this section if the member—

''(1) first became a member of a uniformed service on or after August 1, 1986;

''(2) has completed 15 years of active duty in the uniformed services; and

''(3) if not already obligated to remain on active duty for a period that would result in at least 20 years of active-duty service, executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty for five years after the date of the completion of 15 years of active-duty service.

''(c) ELECTION.—(1) A member eligible to receive a bonus under this section may elect to receive the bonus. The election shall be made in such form and within such period as the Secretary concerned requires.

''(2) An election made under this subsection is irrevocable.

''(d) NOTIFICATION OF ELIGIBILITY.—The Secretary concerned shall transmit a written notification of the opportunity to elect to receive a bonus under this section to each member who is eligible (or upon execution of an agreement described in subsection (b)(3), would be eligible) to receive the bonus. The Secretary shall complete the notification within 180 days after the date on which the member completes 15 years of active duty. The notification shall include the procedures for electing to receive the bonus and an explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay which the member may become eligible to receive.

''(e) FORM AND AMOUNT OF BONUS.—A bonus under this section shall be paid in one lump sum of $30,000.

''(f) TIME FOR PAYMENT.—Payment of a bonus to a member electing to receive the bonus under this section shall be made not later than the first month that begins on or after the date that is 60 days after the Secretary concerned receives from the member an election that satisfies the requirements imposed under subsection (c).

''(g) REPAYMENT OF BONUS.—(1) If a person paid a bonus under this section fails to complete the total period of active duty specified in the agreement entered into under subsection (b)(3), the person shall refund to the United States the amount that bears the same ratio to the amount of the bonus payment as the unserved part of that total period bears to the total period.

''(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under the agreement or this subsection.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''318. Special pay: 15-year service bonus elected by members entering on or after August 1, 1986.''.

(c) CONFORMING AMENDMENTS TO SURVIVOR BENEFIT PLAN PROVISIONS.—(1) Section 1451(h)(3) of title 10, United States Code, is amended by inserting ''OF CERTAIN MEMBERS'' after ''RETIREMENT''.

(2) Section 1452(i) of such title is amended by striking ''When the retired pay'' and inserting ''Whenever the retired pay''.

(d) RELATED TECHNICAL AMENDMENTS.—(1) Section 1401a(b) of title 10, United States Code, is amended—

(A) by striking the heading for paragraph (1) and inserting ''INCREASE REQUIRED.—'';

(B) by striking the heading for paragraph (2) and inserting ''PERCENTAGE INCREASE.—''; and

(C) by striking the heading for paragraph (3) and inserting ''REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS.—''.

(2) Section 1409(b)(2) of title 10, United States Code, is amended by inserting ''CERTAIN'' after ''REDUCTION APPLICABLE TO'' in the paragraph heading.

(3)(A) The heading of section 1410 of such title is amended by inserting ''**certain**'' before ''**members**''.

(B) The item relating to such section in the table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by inserting ''certain'' before ''members''.

SEC. 202. PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) PARTICIPATION AUTHORITY.—(1)(A) Chapter 3 of title 37, United States Code, is amended by adding at the end the following:

''§ 211. Participation in Thrift Savings Plan

''(a) AUTHORITY.—A member of the uniformed services serving on active duty and a member of the Ready Reserve in any pay status may participate in the Thrift Savings Plan in accordance with section 8440e of title 5.

''(b) RULE OF CONSTRUCTION REGARDING SEPARATION.—For the purposes of section 8440e of title 5, the following actions shall be considered separation of a member of the uniformed services from Government employment:

''(1) Release of the member from active-duty service (not followed by a resumption of active-duty service within 30 days after the effective date of the release).

''(2) Transfer of the member by the Secretary concerned to a retired list maintained by the Secretary.''.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''211. Participation in Thrift Savings Plan.''.

(2)(A) Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

''§ 8440e. Members of the uniformed services: members on active duty; members of the Ready Reserve

''(a) PARTICIPATION AUTHORIZED.—(1) A member of the uniformed services authorized to participate in the Thrift Savings Plan under section 211(a) of title 37 may contribute to the Thrift Savings Fund.

''(2) An election to contribute to the Thrift Savings Fund under paragraph (1) may be made only during a period provided under section 8432(b) for individuals subject to this chapter.

''(b) APPLICABILITY OF THRIFT SAVINGS PLAN PROVISIONS.—Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII of this chapter shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such members were employees within the meaning of section 8401(11).

''(c) MAXIMUM CONTRIBUTION.—(1) The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed 5 percent of such member's basic pay for such pay period.

''(2)(A) Subject to subparagraph (B), the amount contributed by a member of the Ready Reserve for any pay period for any compensation received under section 206 of title 37 may not exceed 5 percent of such member's compensation for such pay period.

''(B) Notwithstanding any other provision of this subchapter, no contribution may be made under this paragraph for a member of the Ready Reserve for any year to the extent that such contribution, when added to prior contributions for such member for such year under this subchapter, exceeds any limitation under section 415 of the Internal Revenue Code of 1986.

''(d) OTHER MEMBER CONTRIBUTIONS.—A member of the uniformed services making contributions to the Thrift Savings Fund out of basic pay, or out of compensation under section 206 of title 37, may also contribute (by direct transfer to the Fund) any part of any special or incentive pay that the member receives under section 308, 308a through 308h, or 318 of title 37. No contribution made under this subsection shall be subject to, or taken into account for purposes of, the first sentence of section 8432(d), relating to the applicability of any limitation under section 415 of the Internal Revenue Code of 1986.

''(e) AGENCY CONTRIBUTIONS GENERALLY PROHIBITED.—Except as provided in section 211(c) of title 37, no contribution under section 8432(c) of this title may be made for the benefit of a member of the uniformed services making contributions to the Thrift Savings Fund under subsection (a).

''(f) BENEFITS AND ELECTIONS OF BENEFITS.—In applying section 8433 to a member of the uniformed services who has an account balance in the Thrift Savings Fund—

''(1) any reference in such section to separation from Government employment shall be construed to refer to an action described in section 211(b) of title 37; and

''(2) the reference in section 8433(g)(1) to contributions made under section 8432(a) shall be treated as being a reference to contributions made to the Fund by the member, whether made under section 8351, 8432(a), or this section.

''(g) BASIC PAY DEFINED.—For purposes of this section, the term 'basic pay' means basic pay that is payable under section 204 of title 37.''.

(B) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding after the item relating to section 8440d the following:

''8440e. Members of the uniformed services: members on active duty; members of the Ready Reserve

(3) Section 8432b(b) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking ''Each employee'' and inserting ''Except as provided in paragraph (4), each employee'';

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) No contribution may be made under this section for a period for which an employee made a contribution under section 8440e.''.

(4) Section 8473 of title 5, United States Code, is amended—

(A) in subsection (a), by striking ''14 members'' and inserting ''15 members''; and

(B) in subsection (b)—

(i) by striking ''14 members'' and inserting ''15 members'';

(ii) by striking ''and'' at the end of paragraph (8);

(iii) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(iv) by adding at the end the following:

''(10) 1 shall be appointed to represent participants (under section 8440e) who are members of the uniformed services.''.

(5) Paragraph (11) of section 8351(b) of title 5, United States Code, is redesignated as paragraph (8).

(b) APPLICABILITY.—The authority of members of the uniformed services to participate in the Thrift Savings Plan under section 211 of title 37, United States Code (as added by subsection (a)(1)), shall take effect on July 1, 2000.

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Executive Director appointed by the Federal Thrift Retirement Investment Board shall issue regulations to implement section 8440e of title 5, United States Code (as added by subsection (a)(2)) and section 211 of title 37, United States Code (as added by subsection (a)(1)).

SEC. 203. SPECIAL RETENTION INITIATIVE.

Section 211 of title 37, United States Code, as added by section 202, is amended by adding at the end the following:

''(c) AGENCY CONTRIBUTIONS FOR RETENTION IN CRITICAL SPECIALTIES.—(1) The Secretary concerned may enter into an agreement with a member to make contributions to the Thrift Savings Fund for the benefit of the member if the member—

''(A) is in a specialty designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

''(B) commits in such agreement to continue to serve on active duty in that specialty for a period of six years.

''(2) Under any agreement entered into with a member under paragraph (1), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the 6-year period of the agreement for which the member makes a contribution out of basic pay to the Fund under this section. Paragraph (2) of section 8432(c) applies to the Secretary's obligation to make contributions under this paragraph, except that the reference in such paragraph to contributions under paragraph (1) of such section does not apply.''.

SEC. 204. REPEAL OF REDUCTION IN RETIRED PAY FOR CIVILIAN EMPLOYEES.

(a) REPEAL.—(1) Section 5532 of title 5, United States Code, is repealed.

(2) The chapter analysis at the beginning of chapter 55 of such title is amended by striking out the item relating to section 5532.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

TITLE III—MONTGOMERY GI BILL BENEFITS

SEC. 301. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATION.

(a) INCREASE.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking ''$528'' and inserting ''$600''; and

(2) in subsection (b)(1), by striking ''$429'' and inserting ''$488''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 302. TERMINATION OF REDUCTIONS OF BASIC PAY.

(a) REPEALS.—(1) Section 3011 of title 38, United States Code, is amended by striking subsection (b).

(2) Section 3012 of such title is amended by striking subsection (c).

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act and shall apply to individuals whose initial obligated period of active duty under section 3011 or 3012 of title 38, United States Code, as the case may be, begins on or after such date.

(b) TERMINATION OF REDUCTIONS IN PROGRESS.—Any reduction in the basic pay of an individual referred to in section 3011(b) of title 38, United States Code, by reason of such section 3011(b), or of any individual referred to in section 3012(c) of such title by reason of such section 3012(c), as of the date of the enactment of this Act shall cease commencing with the first month beginning after such date, and any obligation of such individual under such section 3011(b) or 3012(c), as the case may be, as of the day before such date shall be deemed to be fully satisfied as of such date.

(c) CONFORMING AMENDMENT.—Section 3034(e)(1) of title 38, United States Code, is amended in the second sentence by striking ''as soon as practicable'' and all that follows through ''such additional times'' and inserting ''at such times''.

SEC. 303. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

Section 3014 of title 38, United States Code, is amended—

(1) by inserting ''(a)'' before ''The Secretary shall pay''; and

(2) by adding at the end the following new subsection (b):

''(b)(1) When the Secretary determines that it is appropriate to accelerate payments under the regulations prescribed pursuant to paragraph (6), the Secretary may make payments of basic educational assistance allowance under this subchapter on an accelerated basis.

''(2) The Secretary may pay a basic educational assistance allowance on an accelerated basis only to an individual entitled to payment of the allowance under this subchapter who has made a request for payment of the allowance on an accelerated basis.

''(3) In the event an adjustment under section 3015(g) of this title in the monthly rate of basic educational assistance will occur during a period for which a payment of an allowance is made on an accelerated basis under this subsection, the Secretary shall—

''(A) pay on an accelerated basis the amount the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

''(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

''(4) The entitlement to a basic educational assistance allowance under this subchapter of an individual who is paid an allowance on an accelerated basis under this subsection shall be charged at a rate equal to one month for each month of the period covered by the accelerated payment of the allowance.

''(5) A basic educational assistance allowance shall be paid on an accelerated basis under this subsection as follows:

''(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this subchapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the request for payment by the individual concerned; and

''(ii) in any amount requested by the individual concerned up to the aggregate amount of monthly allowance otherwise payable under this subchapter for the period of the course.

''(6) The Secretary shall prescribe regulations for purposes of making payments of basic educational allowance on an accelerated basis under this subsection. Such regulations shall specify the circumstances under which accelerated payments should be made and include requirements relating to the request for, making and delivery of, and receipt and use of such payments.''.

SEC. 304. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBER.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 3020. Transfer of entitlement to basic educational assistance

''(a) The Secretary may, for the purpose of enhancing recruiting and retention, and at the Secretary's sole discretion, permit an individual entitled to educational assistance under this subchapter to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the individuals specified in subsection (b).

''(b) An individual's entitlement to educational assistance may be transferred when authorized under subsection (a) as follows:

''(1) To the individual's spouse.

''(2) To one or more of the individual's children.

''(3) To a combination of the individuals referred to in paragraphs (1) and (2).

''(c)(1) An individual electing to transfer an entitlement to educational assistance under this section shall—

''(A) designate the individual or individuals to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such individual; and

''(B) specify the period for which the transfer shall be effective for each individual designated under subparagraph (A).

''(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to educational assistance under this subchapter.

''(3) An individual electing to transfer an entitlement under this section may elect to modify or revoke the transfer at any time before the use of the transferred entitlement. An individual shall make the election by submitting written notice of such election to the Secretary.

''(d)(1) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

''(2) Except as provided in paragraph (3), an individual using entitlement transferred under this section shall be subject to the provisions of this chapter in such use as if such individual were entitled to the educational assistance covered by the transferred entitlement in the individual's own right.

''(3) Notwithstanding section 3031 of this title, a child shall complete the use of any entitlement transferred to the child under this section before the child attains the age of 26 years.

''(e) In the event of an overpayment of educational assistance with respect to an individual to whom entitlement is transferred under this section, such individual and the individual making the transfer under this section shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

''(f) The Secretary shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

''3020. Transfer of entitlement to basic educational assistance.''.

SEC. 305. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

For purposes of section 3002(3) of title 38, United States Code, the term ''program of education'' shall include the following:

(1) A preparatory course for a test that is required or utilized for admission to an institution of higher education.

(2) A preparatory course for test that is required or utilized for admission to a graduate school.

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. ACCELERATED PAYMENTS OF CERTAIN EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j)(1) Whenever a person entitled to an educational assistance allowance under this chapter so requests and the Secretary concerned, in consultation with the Chief of the reserve component concerned, determines it appropriate, the Secretary may make payments of the educational assistance allowance to the person on an accelerated basis.

''(2) An educational assistance allowance shall be paid to a person on an accelerated basis under this subsection as follows:

''(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this chapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the Secretary concerned receives the person's request for payment on an accelerated basis; and

''(ii) in any amount requested by the person up to the aggregate amount of monthly allowance otherwise payable under this chapter for the period of the course.

''(3) If an adjustment in the monthly rate of educational assistance allowances will be made under subsection (b)(2) during a period for which a payment of the allowance is made to a person on an accelerated basis, the Secretary concerned shall—

''(A) pay on an accelerated basis the amount of the allowance otherwise payable for the period without regard to the adjustment under that subsection; and

''(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

''(4) A person's entitlement to an educational assistance allowance under this chapter shall be charged at a rate equal to one month for each month of the period covered by an accelerated payment of the allowance to the person under this subsection.

''(5) The regulations prescribed by the Secretary of Defense and the Secretary of Transportation under subsection (a) shall provide for the payment of an educational assistance allowance on an accelerated basis under this subsection. The regulations shall specify the circumstances under which accelerated payments may be made and the manner of the delivery, receipt, and use of the allowance so paid

''(6) In this subsection, the term 'Chief of the reserve component concerned' means the following:

''(A) The Chief of the Army Reserve, with respect to members of the Army Reserve.

''(B) the Chief of Naval Reserve, with respect to members of the Naval Reserve.

''(C) The Chief of the Air Force Reserve, with respect to members of the Air Force Reserve.

''(D) The Commander, Marine Reserve Forces, with respect to members of the Marine Corps Reserve.

''(E) The Chief of the National Guard Bureau, with respect to members of the Army National Guard and the Air National Guard.

''(F) The Commandant of the Coast Guard, with respect to members of the Coast Guard Reserve.''.

SEC. 402. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF THE SELECTED RESERVE OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE.

Section 16133(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) In the case of a person who continues to serve as member of the Selected Reserve as of the end of the 10-year period applicable to the person under subsection (a), as extended, if at all, under paragraph (4), the period during which the person may use the person's entitlement shall expire at the end of the 5-year period beginning on the date the person is separated from the Selected Reserve.

''(B) The provisions of paragraph (4) shall apply with respect to any period of active duty of a person referred to in subparagraph (A) during the 5-year period referred to in that subparagraph.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

(a) REQUIREMENT FOR REPORT.—On December 1 of each year, the Secretary of Defense shall submit to Congress a report that sets forth the Secretary's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on recruitment and retention of personnel for the Armed Forces.

(b) FIRST REPORT.—The first report under this section shall be submitted not later than December 1, 2000.

SEC. 502. REPORT AND REGULATIONS ON DEPARTMENT OF DEFENSE POLICIES ON PROTECTING THE CONFIDENTIALITY OF COMMUNICATIONS WITH PROFESSIONALS PROVIDING THERAPEUTIC OR RELATED SERVICES REGARDING SEXUAL OR DOMESTIC ABUSE.

(a) REQUIREMENT FOR STUDY.—(1) The Comptroller General shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

(A) a dependent of a member of the Armed Forces who—

(i) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

(ii) has engaged in such misconduct; and

(B) a therapist, counselor, advocate, or other professional from whom the dependent seeks professional services in connection with effects of such misconduct.

(2) The Comptroller General shall conclude the study and submit to the Secretary of Defense a report on the results of the study within such period as is necessary to enable the Secretary to satisfy the reporting requirement under subsection (d).

(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers necessary to provide the maximum possible protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection, consistent with—

(1) the findings of the Comptroller General;

(2) the standards of confidentiality and ethical standards issued by relevant professional organizations;

(3) applicable requirements of Federal and State law;

(4) the best interest of victims of sexual harassment, sexual assault, or intrafamily abuse; and

(5) such other factors as the Secretary, in consultation with the Attorney General, may consider appropriate.

TITLE VI—MISCELLANEOUS

SEC. 601. IMPROVEMENT OF TRICARE PROGRAM.

(a) IMPROVEMENT OF TRICARE PROGRAM.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097a the following new section:

''§ 1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities

''(a) COMPARABILITY OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, ensure that the health care coverage available through the TRICARE program is substantially similar to the health care coverage available under similar health benefits plans offered under the Federal Employees Health Benefits program established under chapter 89 of title 5.

''(b) PORTABILITY OF BENEFITS.—The Secretary of Defense shall provide that any covered beneficiary enrolled in the TRICARE program may receive benefits under that program at facilities that provide benefits under that program throughout the various regions of that program.

''(c) PATIENT MANAGEMENT.—(1) The Secretary of Defense shall, to the maximum extent practicable, minimize the authorization or certification requirements imposed upon covered beneficiaries under the TRICARE program as a condition of access to benefits under that program.

''(2) The Secretary of Defense shall, to the maximum extent practicable, utilize practices for processing claims under the TRICARE program that are similar to the best industry practices for processing claims for health care services in a simplified and expedited manner. To the maximum extent practicable, such practices shall include electronic processing of claims.

''(d) REIMBURSEMENT OF HEALTH CARE PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may increase the reimbursement provided to health care providers under the TRICARE program above the reimbursement otherwise authorized such providers under that program if the Secretary determines that such increase is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

''(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of—

''(A) the amount equal to the local usual and customary charge for the service in the service area (as determined by the Secretary) in which the service is provided; or

''(B) the amount equal to 115 per cent of the CHAMPUS maximum allowable charge for the service.

''(e) AUTHORITY FOR CERTAIN THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program may collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program to the extent that the beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur such charges on the beneficiary's own behalf.

''(2) The reasonable charges described in this paragraph are reasonable charges for services or care covered by the medicare program under title XVIII of the Social Security Act.

''(3) The collection of charges, and the utilization of amounts collected, under this subsection shall be subject to the provisions of section 1095 of this title. The term 'reasonable costs', as used in that section shall be deemed for purposes of the application of that section to this subsection to refer to the reasonable charges described in paragraph (2).

''(f) CONSULTATION.—The Secretary of Defense shall carry out any actions under this section after consultation with the other administering Secretaries.''.

(2) The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1097a the following new item:

''1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

(c) REPORT ON IMPLEMENTATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the other administering Secretaries, shall submit to Congress a report assessing the effects of the implementation of the requirements and authorities set forth in section 1097b of title 10, United States Code (as added by subsection (a)).

(2) The report shall include the following:

(A) An assessment of the cost of the implementation of such requirements and authorities.

(B) An assessment whether or not the implementation of any such requirements and authorities will result in the utilization by the TRICARE program of the best industry practices with respect to the matters covered by such requirements and authorities.

(3) In this subsection, the term ''administering Secretaries'' has the meaning given that term in section 1072(3) of title 10, United States Code.

(d) INAPPLICABILITY OF REPORTING REQUIREMENTS.—The reports required by section 501 shall not address the amendments made by subsection (a).

SEC. 602. SENSE OF SENATE REGARDING PROCESSING OF CLAIMS FOR VETERANS' BENEFITS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Despite advances in technology, telecommunications, and training, the Department of Veterans Affairs currently requires 20 percent more time to process claims for veterans' benefits than the Department required to process such claims in 1997.

(2) The Department does not currently process claims for veterans' benefits in a timely manner.

(b) SENSE OF SENATE.—It is the sense of the Senate to urge the Secretary of Veterans Affairs to—

(1) review the program, policies, and procedures of the Veterans Benefits Administration of the Department of Veterans Affairs in order to identify areas in which the Administration does not currently process claims for veterans' benefits in a manner consistent with the objectives set forth in the National Performance Review (including objectives regarding timeliness of Executive branch activities);

(2) initiate any actions necessary to ensure that the Administration processes claims for such benefits in a manner consistent with such objectives; and

(3) report to the Congress by June 1, 1999, on measures taken to improve processing time for veterans' claims.

SEC. 603. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Colon cancer.

''(R) Tumors of the brain and central nervous system.''.

SEC. 604. MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS

''SEC. 1897. (a) DEFINITIONS.—In this section:

''(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Veterans Affairs acting jointly.

''(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

''(3) DEMONSTRATION SITE.—The term 'demonstration site' means a Veterans Affairs medical facility, including a group of Veterans Affairs medical facilities that provide hospital care or medical services as part of a service network or similar organization.

''(4) MILITARY RETIREE.—The term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

''(5) TARGETED MEDICARE-ELIGIBLE VETERAN.—The term 'targeted medicare-eligible veteran' means an individual who—

''(A) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code;

''(B) has attained age 65;

''(C) is entitled to benefits under part A of this title; and

''(D)(i) is enrolled for benefits under part B of this title; and

''(ii) if such individual attained age 65 before the date of enactment of the Veterans' Equal Access to Medicare Act, was so enrolled on such date.

''(6) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

''(7) VETERANS AFFAIRS MEDICAL FACILITY.—The term 'Veterans Affairs medical facility' means a medical facility as defined in section 8101 of title 38, United States Code.

''(b) DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to certain targeted medicare-eligible veterans at a demonstration site.

''(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

''(i) a description of the benefits to be provided to the participants in the demonstration project established under this section;

''(ii) a description of the eligibility rules for participation in the demonstration project, including any terms and conditions established under subparagraph (C) and any cost-sharing required under subparagraph (D);

''(iii) a description of how the demonstration project will satisfy the requirements under this title (including beneficiary protections and quality assurance mechanisms);

''(iv) a description of the demonstration sites selected under paragraph (2);

''(v) a description of how reimbursement and maintenance of effort requirements under subsection (h) will be implemented in the demonstration project;

''(vi) a statement that the Secretary shall have access to all data of the Department of Veterans Affairs that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project;

''(vii) a description of any requirement that the Secretary waives pursuant to subsection (d); and

''(viii) a certification, provided after review by the administering Secretaries, that any entity that is receiving payments by reason of the demonstration project has sufficient—

''(I) resources and expertise to provide, consistent with payments under subsection (h), the full range of benefits required to be provided to beneficiaries under the project; and

''(II) information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner.

''(C) VOLUNTARY PARTICIPATION.—Participation of targeted medicare-eligible veterans in the demonstration project shall be voluntary, subject to the capacity of participating demonstration sites and the funding limitations specified in subsection (h), and shall be subject to such terms and conditions as the administering Secretaries may establish. In the case of a demonstration site described in paragraph (2)(C)(i), targeted medicare-eligible veterans who are military retirees shall be given preference for participating in the project conducted at that site.

''(D) COST-SHARING.—The Secretary of Veterans Affairs may establish cost-sharing requirements for veterans participating in the demonstration project. If such cost-sharing requirements are established, those requirements shall be the same as the requirements that apply to targeted medicare-eligible patients at medical centers that are not Veterans Affairs medical facilities.

''(E) DATA MATCH.—

''(i) ESTABLISHMENT OF DATA MATCHING PROGRAM.—The administering Secretaries shall establish a data matching program under which there is an exchange of information of the Department of Veterans Affairs and of the Department of Health and Human Services as is necessary to identify veterans (as defined in section 101(2) of title 38, United States Code) who are entitled to benefits under part A or enrolled under part B, or both, in order to carry out this section. The provisions of section 552a of title 5, United States Code, shall apply with respect to such matching program only to the extent the administering Secretaries find it feasible and appropriate in carrying out this section in a timely and efficient manner.

''(ii) PERFORMANCE OF DATA MATCH.—The administering Secretaries, using the data matching program established under clause (i), shall perform a comparison in order to identify veterans who are entitled to benefits under part A or enrolled under part B, or both. To the extent such Secretaries deem appropriate to carry out this section, the comparison and identification may distinguish among such veterans by category of veterans, by entitlement to benefits under this title, or by other characteristics.

''(iii) DEADLINE FOR FIRST DATA MATCH.—Not later than October 31, 1999, the administering Secretaries shall first perform a comparison under clause (ii).

''(iv) CERTIFICATION BY INSPECTOR GENERAL.—

''(I) IN GENERAL.—The administering Secretaries may not conduct the program unless the Inspector General of the Department of Health and Human Services certifies to Congress that the administering Secretaries have established the data matching program under clause (i) and have performed a comparison under clause (ii).

''(II) DEADLINE FOR CERTIFICATION.—Not later than December 15, 1999, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

''(2) NUMBER OF DEMONSTRATION SITES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and subsection (g)(1)(D)(ii), the administering Secretaries shall establish a plan for the selection of up to 10 demonstration sites located in geographically dispersed locations to participate in the project.

''(B) CRITERIA.—The administering Secretaries shall favor selection of those demonstration sites that consideration of the following factors indicate are suited to serve targeted medicare-eligible veterans:

''(i) There is a high potential demand by targeted medicare-eligible veterans for the services to be provided at the demonstration site.

''(ii) The demonstration site has sufficient capability in billing and accounting to participate in the project.

''(iii) The demonstration site can demonstrate favorable indicators of quality of care, including patient satisfaction.

''(iv) The demonstration site delivers a range of services required by targeted medicare-eligible veterans.

''(v) The demonstration site meets other relevant factors identified in the plan.

''(C) REQUIRED DEMONSTRATION SITES.—At least 1 of each of the following demonstration sites shall be selected for inclusion in the demonstration project:

''(i) DEMONSTRATION SITE NEAR CLOSED BASE.—A demonstration site that is in the same catchment area as a military treatment facility referred to in section 1074(a) of title 10, United States Code, which was closed pursuant to either—

''(I) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); or

''(II) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

''(ii) DEMONSTRATION SITE IN A RURAL AREA.—A demonstration site that serves a predominantly rural population.

''(3) RESTRICTION.—No new buildings may be built or existing buildings expanded with funds from the demonstration project.

''(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 2000.

''(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the demonstration project shall be credited to the applicable Department of Veterans Affairs medical appropriation and (within that appropriation) to funds that have been allotted to the demonstration site that furnished the services for which the payment is made. Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

''(d) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title.

''(2) BENEFICIARY PROTECTIONS FOR MANAGED CARE PLANS.—In the case of a managed care plan established by the Secretary of Veterans Affairs pursuant to subsection (g), such plan shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas:

''(A) Enrollment and disenrollment.

''(B) Nondiscrimination.

''(C) Information provided to beneficiaries.

''(D) Cost-sharing limitations.

''(E) Appeal and grievance procedures.

''(F) Provider participation.

''(G) Access to services.

''(H) Quality assurance and external review.

''(I) Advance directives.

''(J) Other areas of beneficiary protections that the Secretary determines are applicable to such project.

''(3) DESCRIPTION OF WAIVER.—If the Secretary waives any requirement pursuant to paragraph (1), the Secretary shall include a description of such waiver in the agreement described in subsection (b)(1)(B).

''(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

''(f) REPORT.—At least 60 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

''(g) MANAGED HEALTH CARE.—

''(1) MANAGED HEALTH CARE PLANS.—

''(A) IN GENERAL.—The Secretary of Veterans Affairs may establish and operate managed health care plans at demonstration sites.

''(B) REQUIREMENTS.—Any managed health care plan established in accordance with subparagraph (A) shall be operated by or through a Veterans Affairs medical facility, or a group of Veterans Affairs medical facilities, and may include the provision of health care services by public and private entities under arrangements made between the Department of Veterans Affairs and the other public or private entity concerned. Any such managed health care plan shall be established and operated in conformance with standards prescribed by the administering Secretaries.

''(C) MINIMUM BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under a managed health care plan to veterans enrolled in the plan, which benefits shall include at least all health care services covered under the medicare program under this title.

''(D) INCLUSION IN NUMBER OF DEMONSTRATION SITES.—

''(i) IN GENERAL.—Subject to clause (ii), if the Secretary of Veterans Affairs elects to establish a managed health care plan under this section, the establishment of such plan is a selected demonstration site for purposes of applying the numerical limitation under subsection (b)(2).

''(ii) LIMITATION.—The Secretary of Veterans Affairs shall not establish more than 4 managed health care plans under this section.

''(2) DEMONSTRATION SITE REQUIREMENTS.—The Secretary of Veterans Affairs may establish a managed health care plan under paragraph (1) using 1 or more demonstration sites and other public or private entities only after the Secretary of Veterans Affairs submits to Congress a report setting forth a plan for the use of such sites and entities. The plan may not be implemented until the Secretary of Veterans Affairs has received from the Inspector General of the Department of Veterans Affairs, and has forwarded to Congress, certification of each of the following:

''(A) The cost accounting system of the Veterans Health Administration (currently known as the Decision Support System) is operational and is providing reliable cost information on care delivered on an inpatient and outpatient basis at such sites and entities.

''(B) The demonstration sites and entities have developed a credible plan (on the basis of market surveys, data from the Decision Support System, actuarial analysis, or other appropriate methods and taking into account the level of payment under subsection (h) and the costs of providing covered services at the sites and entities) to minimize, to the extent feasible, the risk that appropriated funds allocated to the sites and entities will be required to meet the obligation of the sites and entities to targeted medicare-eligible veterans under the demonstration project.

''(C) The demonstration sites and entities collectively have available capacity to provide the contracted benefits package to a sufficient number of targeted medicare-eligible veterans.

''(D) The Veterans Affairs medical facility administering the health plan has sufficient systems and safeguards in place to minimize any risk that instituting the managed care model will result in reducing the quality of care delivered to participants in the demonstration project or to other veterans receiving care under paragraph (1) or (2) of section 1710(a) of title 38, United States Code.

''(3) RESERVES.—The Secretary of Veterans Affairs shall maintain such reserves as may be necessary to ensure against the risk that appropriated funds, allocated to demonstration sites and public or private entities participating in the demonstration project through a managed health care plan under this section, will be required to meet the obligations of those sites and entities to targeted medicare-eligible veterans.

''(h) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

''(1) PAYMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Veterans Affairs for services provided under the demonstration project at the following rates:

''(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the demonstration site was not part of this demonstration project, was participating in the medicare program, and imposed charges for such services.

''(ii) CAPITATION.—Subject to subparagraphs (B) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (g), at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C with respect to such an enrollee.

''(iii) OTHER CASES.—In cases in which a payment amount may not otherwise be readily computed under clauses (i) or (ii), the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

''(B) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under subparagraph (A), the following shall be excluded:

''(i) DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT.—Any amount attributable to an adjustment under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)).

''(ii) DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.—Any amount attributable to a payment under subsection (h) of such section.

''(iii) PERCENTAGE OF INDIRECT MEDICAL EDUCATION ADJUSTMENT.—40 percent of any amount attributable to the adjustment under subsection (d)(5)(B) of such section.

''(iv) PERCENTAGE OF CAPITAL PAYMENTS.—67 percent of any amounts attributable to payments for capital-related costs under subsection (g) of such section.

''(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

''(i) on a periodic basis consistent with the periodicity of payments under this title; and

''(ii) in appropriate part, as determined by the Secretary, from the trust funds.

''(D) ANNUAL LIMIT ON MEDICARE PAYMENTS.—The amount paid to the Department of Veterans Affairs under this subsection for any year for the demonstration project may not exceed $50,000,000.

''(2) REDUCTION IN PAYMENT FOR VA FAILURE TO MAINTAIN EFFORT.—

''(A) IN GENERAL.—To avoid shifting onto the medicare program under this title costs previously assumed by the Department of Veterans Affairs for the provision of medicare-covered services to targeted medicare-eligible veterans, the payment amount under this subsection for the project for a fiscal year shall be reduced by the amount (if any) by which—

''(i) the amount of the VA effort level for targeted veterans (as defined in subparagraph (B)) for the fiscal year ending in such year, is less than

''(ii) the amount of the VA effort level for targeted veterans for fiscal year 1998.

''(B) VA EFFORT LEVEL FOR TARGETED VETERANS DEFINED.—For purposes of subparagraph (A), the term 'VA effort level for targeted veterans' means, for a fiscal year, the amount, as estimated by the administering Secretaries, that would have been expended under the medicare program under this title for VA-provided medicare-covered services for targeted veterans (as defined in subparagraph (C)) for that fiscal year if benefits were available under the medicare program for those services. Such amount does not include expenditures attributable to services for which reimbursement is made under the demonstration project.

''(C) VA-PROVIDED MEDICARE-COVERED SERVICES FOR TARGETED VETERANS.—For purposes of subparagraph (B), the term 'VA-provided medicare-covered services for targeted veterans' means, for a fiscal year, items and services—

''(i) that are provided during the fiscal year by the Department of Veterans Affairs to targeted medicare-eligible veterans;

''(ii) that constitute hospital care and medical services under chapter 17 of title 38, United States Code; and

''(iii) for which benefits would be available under the medicare program under this title if they were provided other than by a Federal provider of services that does not charge for those services.

''(3) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

''(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

''(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans during the period of the demonstration project compared to the expenditures that would have been made for such veterans during that period if the demonstration project had not been conducted.

''(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

''(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

''(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

''(I) to recoup for the medicare program the amount of such increase in expenditures; and

''(II) to prevent any such increase in the future.

''(ii) STEPS.—Such steps—

''(I) under clause (i)(I), shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation of the Department of Veterans Affairs to the trust funds; and

''(II) under clause (i)(II), shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

''(i) EVALUATION AND REPORTS.—

''(1) INDEPENDENT EVALUATION.—

''(A) IN GENERAL.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health care services to conduct an evaluation of the demonstration project.

''(B) CONTENTS.—The evaluation conducted under subparagraph (A) shall include an assessment, based on the agreement entered into under subsection (b), of the following:

''(i) The cost to the Department of Veterans Affairs of providing care to veterans under the project.

''(ii) Compliance of participating demonstration sites with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers that are not Veterans Affairs medical facilities.

''(iii) A comparison of the costs of participation of the demonstration sites in the program with the reimbursements provided for services of such sites.

''(iv) Any savings or costs to the medicare program under this title from the project.

''(v) Any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project.

''(vi) Any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project.

''(vii) The provision of services under managed health care plans under subsection (g), including the circumstances (if any) under which the Secretary of Veterans Affairs uses reserves described in paragraph (3) of such subsection and the Secretary of Veterans Affairs' response to such circumstances (including the termination of managed health care plans requiring the use of such reserves).

''(viii) Any effect that the demonstration project has on the enrollment in Medicare+Choice plans offered by Medicare+Choice organizations under part C of this title in the established site areas.

''(ix) Any additional elements that the independent entity determines is appropriate to assess regarding the demonstration project.

''(C) ANNUAL REPORTS.—The independent entity conducting the evaluation under subparagraph (A) shall submit reports on such evaluation to the administering Secretaries and to the committees of jurisdiction in the Congress as follows:

''(i) INITIAL REPORT.—The entity shall submit the initial report not later than 12 months after the date on which the demonstration project begins operation.

''(ii) SECOND ANNUAL REPORT.—The entity shall submit the second annual report not later than 30 months after the date on which the demonstration project begins operation.

''(iii) FINAL REPORT.—The entity shall submit the final report not later than 3½ years after the date on which the demonstration project begins operation.

''(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than 3½ years after the date on which the demonstration project begins operation, the administering Secretaries shall submit to Congress a report containing—

''(A) their recommendation as to—

''(i) whether to extend the demonstration project or make the project permanent;

''(ii) whether to expand the project to cover additional demonstration sites and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

''(iii) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded; and

''(B) a detailed description of any costs associated with their recommendation made pursuant to clauses (i) and (ii) of subparagraph (A).''.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I want to express my profound gratitude to the staffs of both the majority and minority, and to all Senators for their cooperation. I think we learned a lesson in constitutional history, thanks to Senator GRAMM.

Mr. DODD. Mr. President, I feel compelled to explain the reasons for my vote against this bill in spite of my strong support for the goals for which this bill strives. Clearly, our armed forces personnel deserve the best pay and benefits that this nation can provide for them. I am aware of the recruiting and retention problems being faced by the services, and I know that the Armed Services Committee had those problems in mind as they drafted this legislation. I do believe, however, that we need to look more closely at how we can solve the military recruitment and retention problems. That question has not been adequately studied. Perhaps a pay raise will stem the tide of personnel leaving the military. Maybe people are leaving simply because this nation has enjoyed several years of a strong economy. The reduced pension could be the reason that people are leaving. The point I make is that we are not really sure why the military is having difficulty meeting its recruitment and retention goals, and this bill seems to be a shotgun approach to solving that problem.

The President's Fiscal Year 2000 budget makes allowances for the problems that the armed services are facing. The proposed budget would increase military pay across the board by 4.4%, there would be greater increases for mid-career personnel and military pensions would be increased from 40% to 50%. These changes are not minor. They will cost billions of dollars over the next six years, and I applaud the Administration for offering these additions to our military pay and benefits programs. The difference between the President's proposal and this bill is that the President's proposal is paid for in the budget. This bill, on the other hand, is not funded. No one has any idea where the funding will come from to pay for this bill's generous provisions.

I read the Congressional Budget Office's report on this legislation. That report has been entered in the CONGRESSIONAL RECORD, and it estimates that enactment of the bill would raise discretionary spending by $1.1 billion in 2000 and $13.8 billion from 2000 to 2004. According to statements from several Senators on the floor, the amendments that were added to this bill would increase the cost by a couple of billion more over the next several years. To spend that amount of money when we do not have a source of funding is irresponsible. To fund this bill, we will have to find offsets in the defense budget, use surplus funds, or raid domestic spending. I oppose all of those means.

Several of my colleagues have expressed concern about the cost of this bill. They assume, I suppose, that this bill will become more reasonable in conference. Perhaps they plan to oppose this bill if, after conference, there is still no means to fund it. I, however, cannot in good conscience vote to send this bill to conference in the hope that it will somehow emerge vastly improved and worthy of my support.

Beyond the funding problems inherent in this legislation, there are a few other problems I would like to address. First, the Secretary of Defense does not support this bill. In a letter to the Armed Services Committee, Secretary Cohen stated that this bill ''could raise hopes that cannot be fulfilled until the final budget number is set.'' Like the Secretary, I would like to support this bill, but it would not be right to support this expanded package of pay and benefits for military personnel now, and then, later, to decide that we are

not willing to fund the entire package. This amounts to an authorization bill. The check for these funds is not written. Again, no one knows how we are going to appropriate money to pay for this.

Unfortunately, there have been no hearings on this bill. I would think that a $16 billion unfunded mandate deserved at least a hearing or two. I would have liked to have known what the Joint Chiefs of Staff thought of this bill's provisions. I would have liked to have seen the studies that show the effect that each of these provisions has on recruitment and retention. There was no testimony, and there were no studies. There was just a rush to ''do something,'' and what we have done here is irresponsible. The first legislation to pass through the Senate in the 106th Congress is a $16 billion, budget-busting, unfunded mandate.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Members permitted to speak for up to 10 minutes each.

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

INTERNET INFORMATION POSTING

Mr. LOTT. Mr. President, currently the House Commerce Committee is examining whether legislation is necessary to minimize the threat that a national, searchable electronic database of thousands of industrial ''worst-case accident scenarios'' will be posted on the Internet, available for searching from anywhere in the world. This information would be, as House Commerce Committee Chairman BLILEY put it, a blueprint for destruction. The FBI and other public safety agencies believe that allowing this information to be posted in a national electronic database would pave the way for terrorists seeking to attack buildings in American cities.

EPA has agreed not to post this data on the Internet and that private parties should not post the data, either. The issue is not whether this information is public: it is, and the FBI has suggested way to provide Americans with the information while minimizing the terrorist threat. The issue is selecting an information distribution system that does not create a targeting tool that terrorists can use to disastrous and tragic ends. However, environmental groups have threatened to use the Freedom of Information Act to obtain the publicize the national database. Congress may have to act swiftly in order to address this issue before EPA receives the worst-case scenarios by the June 21 filing date.

Mr. President, this is not a environmental or right-to-know issue. This is an issue of national safety, and we must treat it as just that. Congress cannot be responsible for facilitating terrorist attacks on American cities. The safety of the American people should always be Congress' top priority.

MEETING WITH U.N. SECRETARY GENERAL

Mr. WARNER. Mr. President, this morning I had the opportunity to confer with U.N. Secretary General Kofi Annan, who is in Washington, D.C. holding extensive meetings. He will be meeting with the Speaker and other members of the Congressional leadership before returning to New York.

This morning, we had a very broad range of discussions about the many threats that face the world today, primarily weapons of mass destruction. I expressed my concern about the situation in Iraq and the continued failure of Saddam Hussein to abide by the many U.N. Security Council Resolutions which require the continuing destruction of Iraq's weapons of mass destruction, as well as the capability to manufacture such weapons and their delivery systems. I stressed to the Secretary General the urgency of the situation and the need for the Security Council to act to ensure compliance with its resolutions. In my view, the future credibility of the Security Council is on the line.

Mr. President, yesterday the Secretary General spoke at Georgetown University on, ''The Future of United Nations Peacekeeping.'' I found the Secretary General's remarks to be very timely and thought-provoking. I ask unanimous consent that the text of his speech be printed in the RECORD. I urge my colleagues to review this speech.

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

ADDRESS BY THE SECRETARY-GENERAL—''THE FUTURE OF UNITED NATIONS PEACEKEEPING''

Thank you, Don, and Father O'Donovan, for those very kind words.

I am greatly flattered by what you have said, and greatly honoured to become the 18th recipient of the Jit Trainor award

Ladies and Gentlemen, I am more than happy to speak to you this evening about United Nations peacekeeping.

As Don has mentioned, I was head of the UN's Department of Peacekeeping Operations for four years before I became Secretary-General. It was a very evicting time, and on the whole a very inspiring one. So the subject has remained close to my heart.

The United Nations can, I think, fairly claim to have invented both the word and the concept of peacekeeping, but it did to by improvising in response to specific situations and events. Not surprisingly, therefore, peacekeeping has evolved over time, and has taken different forms as it adapted to different circumstances.

Since the end of the cold war our operations have become more ambitious and more complex. Almost without exception, the new conflicts which have erupted since 1991 have been civil ones. Although often there is outside interference, the main battle is between people who are, or were, citizens of the same State. This has obliged the United Nations to re-define the tasks that peacekeeping involves.

Instead of maintaining a cease-fire while waiting for a political solution to be negotiated, we are now more often deployed as part of an agreed process, to help implement a fledgling political settlement. This involves us in such activities as collecting weapons, disarming and demobilising militias, supervising elections, and monitoring—sometimes even training—police forces.

Putting a war-torn society back together is never easy, and one can seldom say with real confidence that the point of no return has been achieved. But we can claim some success stories. Not all the wounds of conflict have yet healed, but Namibia, Mozambique, El Salvador, even Cambodia are countries which have now lived several years without war, and which have at least a fair chance of lasting peace, thanks to the hard work of United Nations peacekeepers in the late 1980s and early 90s.

To some extent we have been victims of our own success. In the early 90s expectations ran very high, and some of the assignments we were given were ones which could only have been carried out successfully by much larger forces, armed with heavier equipment and above all with clearer mandates.

The international community has drawn lessons from these sad experiences, but perhaps not always the right ones.

In Africa, the effect was to make external powers more reluctant to expose their forces. Indeed, the tragedy of Rwanda was caused, in part, by fear of repeating the experience of Somalia, which haunted some members of the Security Council.

In Europe, thankfully, a different lesson was drawn. External powers especially the United States, became more involved, not less. We saw diplomatic skill and military muscle combined—late in the day, but with great effect—to produce the Dayton agreement.

The Implementation Force in Bosnia, and the Stabilisation Force which has succeeded it, have to my mind been model peacekeeping forces. Heavily armed, and authorised to use their arms if challenged, they have in practice hardly used them at all because their authority has not been challenged.

But, although authorised by the Security Council, they are not United Nations peacekeeping forces, in the sense that they do not wear blue helmets. As you know, they are under NATO leadership.

But another success was the parallel operation in Eastern Slavonia.

There too a force was deployed strong enough to intimidate the local parties, so that the Transitional Authority was able to see off early challenges and fulfill its mandate without being dragged into combat. But this was a United Nations operation in the full sense of the term. It brought together a broad range of international responses—military, political, and humanitarian—under the authority of a Special Representative of the Secretary-General, who happened to be a very distinguished American, Jacques Paul Klein.

The result was an integrated strategy, and the force was able to withdraw on time, without leaving renewed bloodshed behind it.

But peacekeeping is not, and must not become, an arena of rivalry between the UN and NATO.

There is plenty of work for us both to do. We work best when we respect each other's competence and avoid getting in each other's way. In fact the UN Charter explicitly encourages regional arrangements and agencies, like NATO, to deal with regional problems, provided they do so in a manner consistent with the Purposes and Principles of the United Nations. So I welcome NATO's role, as I welcome that of other regional organizations in other parts of the world.

But few others have, or would claim to have, the same operational capacity that NATO has. It is therefore unfortunate that in recent years the Security Council has been reluctant to authorise new United Nations peacekeeping operations, and has often left regional or sub-regional organizations to struggle with local conflicts on their own.

That puts an unfair burden on the organizations in question. It is also a waste of the expertise in peacekeeping which the United Nations has developed over the years.

As a result, the number of United Nations peacekeepers fell precipitately between 1994 and 1998. If only that meant there had been a drop in the need for peacekeeping, we could all rejoice. But that is far from the case. If fact the overall number of peacekeepers deployed around the world remains roughly constant. It is only the proportion of them wearing blue berets that has declined.

Ironically this happened just when the United Nations, with the support of its Member States, was developing a sound infrastructure for directing and supporting peacekeeping operations.

It is a paradox that, in technical terms, we are better equipped now that we have only fourteen thousand soldiers in the field than we were five years ago when we had nearly eighty thousand. And if our capacity continues to be under-utilised there is an obvious risk that Member States will not longer give us the resources we need to sustain it.

This would not matter if the peace around the world were being successfully kept. But the truth is that the role played by NATO in Bosnia has proved very hard for regional arrangements or defence alliances to reproduce elsewhere.

In Africa especially, I find that local powers, and indeed regional organizations, are turning more and more to the United Nations for help. We must not dismantle the capacity that can provide that help.

Of course we must be careful to avoid the mistakes of the past. We must never again send a UN force, just for the sake of it, to keep a non-existent peace, or one to which the parties themselves show no sense of commitment.

That, perhaps, is the lesson of Angola, where as you know civil war is now raging once again, and I have had to recommend the withdrawal of the United Nations force.

But let us not forget the positive lesson of Mozambique, which ten years ago seemed quite as tragic and hopeless a case as Angola.

There, the presence of 7,000 United Nations troops had a calming effect, helping to reassure vulnerable parties and people, and to deter disruptions of the peace.

Conflict was successfully channelled into legitimate political institutions, so that interests no longer had to be pursued at the point of a gun.

This required working with the parties to strengthen national institutions and broaden their base. And to ensure that the parties could make use of the new institutions, we had to help them—especially the guerrilla opposition—to transform themselves from an army into a political party.

Had we not done that, the opposition leaders would quickly have become disillusioned with the political process and would have been tempted to return to the battlefield.

We also provided incentives for individual combatants, many of whom had been pressed into service as children, had come of age as fighters, and knew no other way of life.

And so, with a little help from the United Nations, the parties in Mozambique were able to make peace. What was once a violent and ruthless rebel movement has become a constructive and peaceful opposition party.

No doubt we got some things right in Mozambique which we got wrong in Angola, but surely the main difference lies in the behavior of the political leaders, on both sides, in the two countries.

So yes, we have to be cautious about taking on new mandates in countries where many different interests and ethnic animosities are involved.

But let us not nurture any illusions that regional or sub-regional bodies will be able to handle these problems on their own, without help from the United Nations.

You only have to list the countries which might make up a ''regional force'' in the Democratic Republic of Congo, for instance, to realize that many of them are already involved in the hostilities on one side or the other.

Indeed, the experience of decades has shown that peacekeeping is often best done by people from outside the region, who are more easily accepted as truly detached and impartial.

So I think we must be prepared for a conclusion which many African leaders have already reached: that if a peacekeeping force is required in the Congo, the United Nations would probably have to be involved.

But equally we must be prepared to insist that no such force can be deployed unless it is given sufficient strength and firepower to carry out its assignment, and assured of the full backing of the Security Council when it has to use that power.

I see no need for it to include American troops. But I think in other aspects the Bosnian model is just as relevant to Africa as it is to Europe.

Ladies and Gentlemen, increasingly, we find that peacekeeping cannot be treated as a distinct task, complete in itself. It has to be seen as part of a continuum, stretching from prevention to conflict resolution and ''peace-building.''

And these things cannot be done in a neat sequence. You have to start building peace while the conflict is still going on.

It is essentially a political task, but one which is part and parcel of a peacekeeping role. More than ever, the distinctions between political and military aspects of our work are becoming blurred.

I have no doubt that in future we will need to be even more adaptable.

The future of peacekeeping, I suspect, will depend in large part on whether we succeed in mobilizing new forms of leverage to bring parties towards a settlement.

In the past, when a peacekeeping operation ran into trouble, the most effective response was to report this to the Security Council, whose Permanent Members would then put pressure on their respective proxies, mainly by extending or reducing economic and military aid.

In today's conflicts that kind of government-to-government aid is less important. Conflicting parties now finance their armies with hard currency earned by exporting the commodities they control.

How do we obtain leverage over those sources of income? It may involve a new kind of relationship with the private sector, where the foreign customers and backers of the parties are to be found.

Also, given the civil nature of today's conflicts, which are always in some degree a battle for hearts and minds, we may need to engage on a broader front with the civilian population. At the very least, we must ensure that they have access to reliable and objective information, so that they are not an easy prey for artificially fanned fear and hatred.

Ladies and Gentlemen, it is sadly clear that the need for United Nations peacekeeping will continue, and indeed will probably grow. And it is very much in America's national interest to support an international response to conflicts—even those which seem remote—because, in today's interconnected world, they seldom remain confined in one country or even one region.

Take Rwanda, for example. The failure of the international community to respond effectively led not only to genocide in Rwanda itself, but also to the exodus of refugees and combatants across the borders.

Because we failed to act in time, seven countries are now fighting each other in a mineral-rich region which should have been a prime area for investment and development. Is this something the U.S. can afford to ignore?

Personally, I shall always be haunted by our failure to prevent or halt the genocide in Rwanda until nearly a million people had been killed. The peacekeeping force was withdrawn at the very moment that it should have been reinforced.

But whether we express remorse or outrage, or both, our words are of little value—unless we are sure that next time we will act differently.

Which means that next time we will not hide behind the complexities and dangers of the situation. Next time we must not wait for hindsight to tell us the wisest course.

Nor must we set impossible conditions, thereby ensuring that the Security Council takes no decision until too late.

We must be prepared to act while things are still unclear and uncertain, but in time to make a difference.

We must do so with sufficient resources—including credible military strength when a deterrent is necessary—to ensure the mission's success and the peacekeepers' safety.

And once the Council has authorised an operation, everyone—but especially those Council members who voted for it—must pay their share of the cost, promptly and in full.

Only if we approach our work in that spirit, Ladies and Gentlemen, can we dare hope that peacekeeping in the twenty-first century will build on the achievements of the twentieth.

Thank you very much.

HIGH MARKS FOR MAYOR MENINO

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to Mayor Tom Menino of the City of Boston and the extraordinary effort he has made over the past year to bring the Democratic National Convention to Boston in 2000.

Regardless of the outcome of this effort, all of Boston is proud of the brilliant job that Mayor Menino has done in bringing the business community and the neighborhoods of Boston together to make our city one of the most attractive and dynamic cities in the world. Mayor Menino deserves enormous credit for highlighting Boston's great strengths—its diverse heritage, its proud history, its cultural attractions, its convention facilities, its transportation infrastructure, its technological capabilities and its renowned world leadership in education, health care and many other impressive attributes.

Boston has proven itself time and again in recent years in its unique ability to host major national and international events. And thanks in great part to Mayor Menino's outstanding efforts, Boston is in the top rank of cities throughout the world.

An editorial last Friday in the Boston Globe entitled ''An A for Menino's Effort'' pays eloquent tribute to the Mayor's leadership and achievements, and I ask unanimous consent that it be printed in the RECORD.

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

[From The Boston Globe, February 19, 1999]

AN A FOR MENINO'S EFFORT

Mayor Menino banged drums, crashed symbols, and sounded trumpets in his attempt to attract the 2000 Democratic National Convention. But in the end the political symphony will take place elsewhere, probably Los Angeles.

Give the mayor credit on this one. Boston suffered from a dearth of hotel rooms, no previous experience with national political conventions, and the huge Central Artery disruption. But Menino brought Boston to the final three among 28 applicants. In the process, he blended the skills of corporate giants, upstart entrepreneurs, local and regional public officials, and technical experts.

BankBoston, Fleet Financial, and Bell Atlantic deserve special recognition for supporting the mayor's efforts when few thought Boston could contend. These partners can be called on again to attract major business and professional meetings to a new convention center.

Boston's bid failed due to conditions beyond its control. California's 54 electoral votes outrank Massachusetts' 12. Equally important, the Democrats need to shore up the West Coast firmly and quickly in order to allocate money and muscle to Michigan, New Jersey, Pennsylvania, and other key states if they hope to hold the presidency. No amount of showmanship, corporate support, or creativity by Boston's boosters could solve that problem of political calculus.

A frustrated Menino jumped ahead of the DNC when he announced that Boston's bid had failed. The official decision is not expected until early March. That gaffe might disqualify Menino for the deportment prize. But the mayor's reaction is understandable to all, including the outgoing Democratic national chairman, Steven Grossman.

''Menino threw his heart and soul into this thing,'' says Grossman, a Newton businessman. ''That's what leadership is all about.''

The mayor exhausted his political and inner resources in this unsuccessful bid of the convention. But he energized Boston in the process.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, February 23, 1999, the federal debt stood at $5,619,947,525,857.17 (Five trillion, six hundred nineteen billion, nine hundred forty-seven million, five hundred twenty-five thousand, eight hundred fifty-seven dollars and seventeen cents).

One year ago, February 23, 1998, the federal debt stood at $5,519,493,000,000 (Five trillion, five hundred nineteen billion, four hundred ninety-three million).

Five years ago, February 23, 1994, the federal debt stood at $4,541,171,000,000 (Four trillion, five hundred forty-one billion, one hundred seventy-one million).

Ten years ago, February 23, 1989, the federal debt stood at $2,722,096,000,000 (Two trillion, seven hundred twenty-two billion, ninety-six million).

Fifteen years ago, February 23, 1984, the federal debt stood at $1,455,152,000,000 (One trillion, four hundred fifty-five billion, one hundred fifty-two million) which reflects a debt increase of more than $4 trillion—$4,164,795,525,857.17 (Four trillion, one hundred sixty-four billion, seven hundred ninety-five million, five hundred twenty-five thousand, eight hundred fifty-seven dollars and seventeen cents) during the past 15 years.

30TH ANNIVERSARY COMMEMORATION

Mr. ASHCROFT. Mr. President, I rise today to congratulate Pastor Jack and Anna Hayford as they celebrate 30 years of service to The Church On The Way in Van Nuys, California. It is with great honor and distinction that I commend the Hayfords for their long and outstanding service to their congregation and people of faith throughout this nation and literally around the world.

Pastor Jack and Anna have been faithful teachers of God's Word, inspiring millions in their relationship with God. Their personal sacrifices over the past 30 years of service are exemplified by their relentless pursuit to minister to others. Pastor Jack has helped bring pastors and church leaders together at new levels of unity. His tireless and selfless pursuit to build bridges within the Body of Christ across racial divisions is to be commended.

Anna Hayford, a wife and mother, serves as a role-model to women in ministry on how to balance the duties of home and church and the demands of marriage and family. She is a faithful source of strength and encouragement to many through her teaching and counseling ministry.

Over the past 30 years, the Hayfords have been on a mission to bring understanding, repentance, and healing to the pain that has separated black and white churches in America. As our nation looks increasingly for guidance in this period of moral decay, the Hayfords provide a spiritual path for others to follow.

I wish Pastor Jack and Anna Hayford a memorable celebration of their commitment to the redemptive mission of Christ. May God bless them and protect them in their future endeavors.

DRAFT Y2K LIABILITY LEGISLATION

Mr. MCCAIN. Mr. President, the Senior Senator from Washington state, SLADE GORTON, and I have committed to working on legislation to address liability issues arising out of Y2K problems. To this end, I introduced S. 96. As Senator GORTON and I agreed before the bill was filed, we have been listening to concerns and views of the varied constituencies interested in limiting wasteful litigation and encouraging prevention and timely remediation of Y2K problems. I am very pleased that today we are offering into the record a revised working draft for additional input and discussion.

Mr. GORTON. Mr. President, the Y2K problem should not be underestimated. Before the session began, Senator MCCAIN and I committed to working on legislation that will allow entities to focus their efforts on remediation and prevent unproductive litigation. We have solicited and obtained input from sources representing both potential plaintiffs and potential defendants in Y2K actions. We want to continue listening and working on this issue, but do not have much time—the countdown had begun. The draft measure that we are putting on the record today reflects principally the measure proposed by a large coalition of business groups including the Chamber of Commerce, the National Association of Manufacturers, the National Federation of Independent Business, and many others. The draft will, I hope, invite more feedback, and focus the efforts of all interested parties. I invite our colleagues and all interested parties to continue to provide us with comments and suggestions so that we can improve the measure before it is marked up by the Commerce Committee on March 3.

Mr. MCCAIN. I intend to mark up Y2K liability legislation in the Commerce Committee next week so that it can be considered by the full Senate as soon as possible. If the bill is to serve the needs for which it is designed, it must be passed expeditiously. We cannot have the intended effect of encouraging businesses to be proactive in preventing Y2K failures if we delay action on this bill until later in the session. This bill addresses an immediate need, and the Senate must act on it accordingly. I ask unanimous consent that the draft measure be printed in the CONGRESSIONAL RECORD.

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

AMENDMENT—

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Y2K Act''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Application of Act.
Sec. 5. Punitive damages limitations.

TITLE I—OPPORTUNITY TO RESOLVE Y2K PROBLEMS

Sec. 101. Pre-filing notice.
Sec. 102. Pleading requirements.
Sec. 103. Duty to mitigate.
Sec. 104. Proportionate liability.

TITLE II—Y2K ACTIONS INVOLVING CONTRACT-RELATED CLAIMS

Sec. 201. Contracts enforced.
Sec. 202. Defenses.
Sec. 203. Damages limitation.
Sec. 204. Mixed actions.

TITLE III—Y2K ACTIONS INVOLVING TORT CLAIMS

Sec. 301. Damages in tort claims.

Sec. 302. Certain defenses.
Sec. 303. Liability of officers and directors.
TITLE IV—Y2K CLASS ACTIONS
Sec. 401. Minimum injury requirement.
Sec. 402. Notification.
Sec. 403. Forum for Y2K class actions.

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that:

(1) The majority of responsible business enterprises in the United States are committed to working in cooperation with their contracting partners towards the timely and cost-effective resolution of the many technological, business, and legal issues associated with the Y2K date change.

(2) Congress seeks to encourage businesses to concentrate their attention and resources in short time remaining before January 1, 2000, on addressing, assessing, remediating, and testing their Y2K problems, and to minimize any possible business disruptions associated with the Y2K issues.

(3) It is appropriate for the Congress to enact legislation to assure that Y2K problems do not unnecessarily disrupt interstate commerce or create unnecessary caseloads in Federal courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of Y2K.

(4) Y2K issues will potentially affect practically all business enterprises to at least some degree, giving rise possibly to a large number of disputes.

(5) Resorting to the legal system for resolution of Y2K problems is not feasible for many businesses, particularly small businesses, because of its complexity and expense.

(6) The delays, expense, uncertainties, loss of control, adverse publicity and animosities that frequently accompany litigation of business disputes can only exacerbate the difficulties associated with the Y2K date change, and work against the successful resolution of those difficulties.

(7) Congress recognizes that every business in the United States should be concerned that widespread and protracted Y2K litigation may threaten the network of valued and trusted business relationships that are so important to the effective functioning of the world economy, and which may put unbearable strains on an overburdened and sometime ineffective judicial system.

(8) A proliferation of frivolous Y2K lawsuits by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.

(9) Congress encourages businesses to approach their Y2K disputes responsibly, and to avoid unnecessary, time-consuming and costly litigation about Y2K failures, particularly those that are not material. Congress supports good faith negotiations between parties when there is a dispute over a Y2K problem, and, if necessary, urges the parties to enter into voluntary, non-binding mediation rather than litigation.

SEC. 3. DEFINITIONS.

In this Act:

(1) Y2K ACTION.—The term ''Y2K action'' means a civil action commenced in any Federal or State court in which the plaintiff's alleged harm or injury resulted directly or indirectly from an actual or potential Y2K failure, or a claim or defense of a defendant is related directly or indirectly to an actual or potential Y2K failure.

(2) Y2K FAILURE.—The term ''Y2K failure'' means failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive date-related data, including failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) accurately to account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(3) ACTUAL DAMAGES.—The term ''actual damages'' means direct damages for injury to tangible property, and the cost of repairing or replacing products that have a material defect.

(4) ECONOMIC LOSS.—Except as otherwise specifically provided in a written contract between the plaintiff and the defendant in a Y2K action (and subject to applicable State law), the term ''economic loss''—

(A) means amounts awarded to compensate an injured party for any loss other than for personal injury or damage to tangible property (other than property that is the subject of the contract); and

(B) includes amounts awarded for—

(i) lost profits or sales;

(ii) business interruption;

(iii) losses indirectly suffered as a result of the defendant's wrongful act or omission;

(iv) losses that arise because of the claims of third parties;

(v) losses that must be pleaded as special damages; and

(vi) consequential damages (as defined in the Uniform Commercial Code or analogous State commercial law); but

(C) does not include actual damages.

(5) MATERIAL DEFECT.—The term ''material defect'' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended. The term ''material defect'' does not include a defect that—

(A) has an insignificant or de minimis effect on the operation or functioning of an item or computer program;

(B) affects only on a component of an item or program that, as a whole, substantially operates or functions as designed; or

(C) has an insignificant or de minimis effect on the efficacy of the service provided.

(6) PERSONAL INJURY.—The term ''personal injury''—

(A) means any physical injury to a natural person, including death of the person; but

(B) does not include mental suffering, emotional distress, or like elements of injury that do not constitute physical harm to a natural person.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(8) CONTRACT.—The term ''contract'' means a contract, tariff, license, or warranty.

(9) PERSON.—

(A) IN GENERAL.—The term ''person'' has the meaning given to that term by section 1 of title 1, United States Code.

(B) GOVERNMENT ENTITIES.—The term ''person'' includes an agency, instrumentality, or other entity of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities) when that agency, instrumentality, or other entity is a plaintiff or a defendant in a Y2K action.

(10) ALTERNATIVE DISPUTE RESOLUTION.—The term ''alternative dispute resolution'' means any process or proceeding, other than adjudication by a court or administrative proceeding, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration.

SEC. 4. APPLICATION OF ACT.

(a) GENERAL RULE.—This Act applies to any Y2K action brought in a State or Federal court after February 22, 1999.

(b) NO NEW CAUSE OF ACTION CREATED.—Nothing in this Act creates a new cause of action under Federal or State law.

(c) ACTIONS FOR PERSONAL INJURY OR WRONGFUL DEATH EXCLUDED.—This Act does not apply to a claim for personal injury or for wrongful death.

(d) WRITTEN CONTRACT CONTROLS.—The provisions of this Act do not supersede a valid, enforceable written contract between a plaintiff and a defendant in a Y2K action.

(e) PREEMPTION OF STATE LAW.—This Act supersedes State law to the extent that it establishes a rule of law applicable to a Y2K action that is inconsistent with State law.

SEC. 5. PUNITIVE DAMAGES LIMITATIONS.

(a) IN GENERAL.—In any Y2K action in which punitive damages may be awarded under applicable State law, the defendant shall not be liable for punitive damages unless the plaintiff proves by clear and convincing evidence that the defendant acted with conscious and flagrant disregard for the rights and property of others.

(b) CAPS ON PUNITIVE DAMAGES.—

(1) IN GENERAL.—Punitive damages against a defendant in such a Y2K action may not exceed the larger of—

(A) 3 times the amount awarded for actual damages; or

(B) $250,000.

(2) SPECIAL RULE.—In the case of a defendant—

(A) who—

(i) is sued in his or her capacity as an individual; and

(ii) whose net worth does not exceed $500,000; or

(B) that is an unincorporated business, a partnership, corporation, association, unit of local government, or organization with fewer than 25 full-time employees,

paragraph (1) shall be applied by substituting ''smaller'' for ''larger''.

(c) GOVERNMENT ENTITIES.—Punitive damages in such a Y2K action may not be awarded against a person described in section 3(8)(B).

TITLE I—OPPORTUNITY TO RESOLVE Y2K PROBLEMS

SEC. 101. PRE-FILING NOTICE.

(a) IN GENERAL.—Before commencing a Y2K action, except an action that seeks only injunctive relief, a prospective plaintiff with a Y2K claim shall serve on each prospective defendant in that action a written notice that identifies with particularity—

(1) the manifestations of any material defect alleged to have caused harm or loss;

(2) the harm or loss allegedly suffered by the prospective plaintiff;

(3) the remedy sought by the prospective plaintiff;

(4) the basis upon which the prospective plaintiff seeks that remedy; and

(5) the name, title, address, and telephone number of any individual who has authority to negotiate a resolution of the dispute on behalf of the prospective plaintiff.

(b) DELAY OF ACTION.—Except as provided in subsection (d), a prospective plaintiff may not commence a Y2K action in Federal or State court until the expiration of 90 days from the date of service of the notice required by subsection (a).

(c) RESPONSE TO NOTICE.—Within 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall serve on each prospective plaintiff a written statement acknowledging receipt of the notice, and proposing the actions it has taken or will take to address the problem identified by the prospective plaintiff. The written statement shall state whether the prospective defendant is willing to engage in alternative dispute resolution.

(d) FAILURE TO RESPOND.—if a prospective defendant—

(1) fails to respond to a notice provided pursuant to subsection (a) within the 30 days specified in subsection (c); or

(2) does not describe the action, if any, the prospective defendant will take to address the problem identified by the prospective plaintiff, then the 90-day period specified in subsection (a) will terminate at the end of the 30-day period at to that prospective defendant and the prospective plaintiff may commence its action against that prospective defendant.

(e) FAILURE TO PROVIDE NOTICE.—If a defendant determines that a plaintiff has filed a Y2Y action without providing the notice specified in subsection (a) and without awaiting the expirations of the 90-day period specified in subsection (a), the defendant may treat the plaintiff's complaint as such a notice by so informing the court and the plaintiff. If any defendant elects to treat the complaint as such a notice—

(1) the court shall stay all discovery and all other proceedings in the action for 90 days after filing of the complaint; and

(2) the time for filing answers and all other pleadings shall be tolled during this 90-day period.

(f) EFFECT OF CONTRACTUAL WAITING PERIODS.—In cases in which a contract requires notice of non-performance and provides for a period of delay prior to the initiation of suit for breach or repudiation of contract, the period of delay provided in the contract is controlling over the waiting period specified in subsections (a) and (e).

(g) STATE LAW CONTROLS ALTERNATIVE METHODS.—Noting in this section supersedes or otherwise preempts any State law or rule of civil procedure with respect to the use of alternative dispute resolution for Y2Y actions.

SEC. 102. PLEADING REQUIREMENTS.

(A) NATURE AND AMOUNT OF DAMAGES.—In all Y2Y actions in which damages are requested, the complaint shall provide specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation.

(b) MATERIAL DEFECTS.—In any Y2Y action in which the plaintiff alleges that a product or service defective, the complaint shall contain specific information regarding the manifestations of the material defects and the facts supporting a conclusion that the defects are material.

(c) REQUIRED STATE OF MIND.—In any Y2Y action in which a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each element of that claim, state with particularity the facts giving rise to a strong inference that the defendant acted with the required state of mind.

SEC. 103. DUTY TO MITIGATE.

Damages awarded in any Y2Y action shall exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was, or reasonably could have been, aware, including reasonable efforts made by a defendant to make information available to purchasers or users of the defendant's product or services concerning means of remedying or avoiding Y2Y failure.

SEC. 104. PROPORTIONATE LIABILITY.

(a) IN GENERAL.—A person against whom a final judgment is entered in a Y2K action shall be liable solely for the portion of the judgment that corresponds to the relative and proportional liability of that person. In determining the percentage of responsibility of any defendant, the trier of fact shall determine that percentage as a percentage of the total fault of all persons, including the plaintiff, who caused or contributed to the total loss incurred by the plaintiff.

(b) SEVERAL LIABILITY.—Liability in a Y2K action shall be several but not joint.

TITLE II—Y2K ACTIONS INVOLVING CONTRACT-RELATED CLAIMS

SEC. 201. CONTRACTS ENFORCED.

In any Y2K action, any written term or condition of a valid and enforceable contract between the plaintiff and the defendant, including limitations or exclusions of liability and disclaimers of warranty, is fully enforceable, unless the court determines that the contract as a whole is unenforceable. If the contract is silent with respect to any matter, the interpretation of the contract with respect to that matter shall be determined by applicable law in force at the time the contract was executed.

SEC. 202. DEFENSES.

(a) REASONABLE EFFORTS.—In any Y2K action in which breach of contract is alleged, in addition to any other rights provided by applicable law, the party against whom the claim of breach is asserted shall be allowed to offer evidence that its implementation of the contract, or its efforts to implement the contract, were reasonable in light of the circumstances for the purpose of limiting or eliminating the defendant's liability.

(b) IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY.—In any Y2K action in which breach of contract is alleged, applicability of the doctrines of impossibility and commercial impracticability shall be determined by applicable law in existence on January 1, 1999, and nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon such doctrines.

SEC. 203. DAMAGES LIMITATION.

In any Y2K action for breach or repudiation of contract, no party may claim, nor be awarded, consequential or punitive damages unless such damages are allowed—

(1) by the express terms of the contract; or

(2) if the contract is silent on such damages, by operation of State law at the time the contract was executed or by operation of Federal law.

SEC. 204. MIXED ACTIONS.

If a Y2K action includes claims based on breach of contract and tort or other noncontract claims, then this title shall apply to the contract-related claims and title III shall apply to the tort or other noncontract claims.

TITLE III—Y2K ACTIONS INVOLVING TORT CLAIMS

SEC. 301. DAMAGES IN TORT CLAIMS.

A party to a Y2K action making a tort claim may not recover damages for economic loss unless—

(1) the recovery of such losses is provided for in a contract to which the party seeking to recover such losses is a party;

(2) such losses result directly from a personal injury claim resulting from the Y2K failure; or

(3) such losses result directly from damage to tangible property caused by the Y2K failure (other than damage to property that is the subject of the contract), and such damages are permitted under applicable Federal or State law.

SEC. 302. CERTAIN DEFENSES.

(a) GOOD FAITH; REASONABLE EFFORTS.—In any Y2K action except an action for breach or repudiation of contract, the party against whom the claim is asserted shall be entitled to establish, as a complete defense to any claim for damages, that it acted in good faith and took measures that were reasonable under the circumstances to prevent the Y2K failure from occurring or from causing the damages upon which the claim is based.

(b) DEFENDANT'S STATE OF MIND.—In a Y2K action making a claim for money damages in which the defendant's actual or constructive awareness of an actual or potential a Y2K failure is an element of the claim, the defendant is not liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves by clear and convincing evidence that the defendant knew, or recklessly disregarded a known and substantial risk, that the failure would occur in the specific facts and circumstances of the claim.

(c) FORESEEABILITY.—In a Y2K action making a claim for money damages, the defendant is not liable unless the plaintiff proves by clear and convincing evidence, in addition to all other requisite elements of the claim, that the defendant knew, or should have known, that the defendant's action or failure to act would cause harm to the plaintiff in the specific facts and circumstances of the claim.

(d) CONTROL NOT DETERMINATIVE OF LIABILITY.—The fact that a Y2K failure occurred in an entity, facility, system, product, or component that was within the control of the party against whom a claim for money damages is asserted in a Y2K action shall not constitute the sole basis for recovery of damages in that action.

(e) PRESERVATION OF EXISTING LAW.—The provisions of this section are in addition to, and not in lieu of, any requirement under applicable law as to burdens of proof and elements necessary for prevailing in a claim for money damages.

SEC. 303. LIABILITY OF OFFICERS AND DIRECTORS.

(a) IN GENERAL.—A director, officer, trustee, or employee of a business or other organization (including a corporation, unincorporated association, partnership, or nonprofit organization) shall not be personally liable in any Y2K action making a tort or other noncontract claim in that person's capacity as a director, officer, trustee, or employee of the business or organization for more than the greater of—

(1) $100,000; or

(2) the amount of pre-tax compensation received by the director, officer, trustee, or employee from the business or organization during the 12 months immediately preceding the act or omission for which liability was imposed.

(b) EXCEPTION.—Subsection (a) does not apply in any Y2K action in which it is found by clear and convincing evidence that the director, officer, trustee, or employee—

(1) intentionally made misleading statements regarding any actual or potential year 2000 problem; or

(2) intentionally withheld from the public significant information there was a legal duty to disclose to the public regarding any actual or potential year 2000 problem of that business or organization which would likely result in actionable Y2K failure.

(c) STATE LAW, CHARTER, OR BYLAWS.—Nothing in this section supersedes any provision of State law, charter, or a bylaw authorized by State law, in existence on January 1, 1999, that establishes lower limits on the liability of a director, officer, trustee, or employee of such a business or organization.

TITLE IV—Y2K CLASS ACTIONS

SEC. 401. MINIMUM INJURY REQUIREMENT.

In any Y2K action involving a claim that a product or service is defective, the action may be maintained as a class action in Federal or State court as to that claim only if—

(1) it satisfies all other prerequisites established by applicable Federal or State law or applicable rules of civil procedure; and

(2) the court finds that the alleged defect in a product or service is material as to the majority of the members of the class.

SEC. 402. NOTIFICATION.

(a) NOTICE BY MAIL.—In any Y2K action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class by United States mail, return receipt requested. Persons whose receipt of the notice is not verified by the court or by counsel for one of the parties shall be excluded from the class unless those persons inform the court in writing, on a date no later than the commencement of trial or entry of judgment, that they wish to join the class.

(b) CONTENTS OF NOTICE.—In addition to any information required by applicable Federal or State law, the notice described in this subsection shall—

(1) concisely and clearly describe the nature of the action;

(2) identify the jurisdiction where the case is pending; and

(3) describe the fee arrangement of class counsel.

SEC. 403. FORUM FOR Y2K CLASS ACTIONS.

(a) JURISDICTION.—The District Courts of the United States have original jurisdiction of any Y2K action, without regard to the sum or value of the matter in controversy involved, that is brought as a class action if—

(1) any member of the proposed plaintiff class is a citizen of a State different from the State of which any defendant is a citizen;

(2) any member of the proposed plaintiff class is a foreign Nation or a citizen of a foreign Nation and any defendant is a citizen or lawful permanent resident of the United States; or

(3) any member of the proposed plaintiff class is a citizen or lawful permanent resident of the United States and any defendant is a citizen or lawful permanent resident of a foreign Nation.

(b) PREDOMINANT STATE INTEREST.—A United States District Court in an action described in subsection (a) may abstain from hearing the action if—

(1) a substantial majority of the members of all proposed plaintiff classes are citizens of a single State;

(2) the primary defendants are citizens of that State; and

(3) the claims asserted will be governed primarily by the laws of that State.

(c) LIMITED CONTROVERSIES.—A United States District Court in an action described in subsection (a) may abstain from hearing the action if—

(1) the value of all matters in controversy asserted by the individual members of all proposed plaintiff classes in the aggregate does not exceed $1,000,000, exclusive of interest and costs;

(2) the number of members of all proposed plaintiff classes in the aggregate in less than 100; or

(3) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief.

(d) DIVERSITY DETERMINATION.—For purposes of applying section 1322(b) of title 28, United States Code, to actions described in subsection (a) of this section, a member of a proposed class is deemed to be a citizen of a State different from a corporation that is a defendant if that member is a citizen of a State different from each State of which that corporation is deemed a citizen.

(e) REMOVAL.—

(1) IN GENERAL.—A class action described in subsection (a) may be removed to a district court of the United States in accordance with chapter 89 of title 28, United States Code, except that the action may be removed—

(A) by any defendant without the consent of all defendants; or

(B) any plaintiff class member who is not a named or representative class member of the action for which removal is sought, without the consent of all members of the class.

(2) TIMING.—This subsection applies to any class before or after the entry of any order certifying a class.

(3) PROCEDURE.—

(A) IN GENERAL.—Section 1446(a) of title 28, United States Code, shall be applied to a plaintiff removing a case under this section by treating the 30-day filing period as met if a plaintiff class member who is not a named or representative class member of the action for which removal is sought files notice of removal within 30 days after receipt by such class member of the initial written notice of the class action provided at the trial court's direction.

(B) APPLICATION OF SECTION 1446.—Section 1446 of title 28, United States Code, shall be applied—

(i) to the removal of a case by a plaintiff under this section by substituting the term ''plaintiff'' for the term ''defendant'' each place it appears; and

(ii) to the removal of a case by a plaintiff or a defendant under this section—

(I) by inserting the phrase ''by exercising due diligence'' after ''ascertained'' in the second paragraph of subsection (b); and

(II) by treating the reference to ''jurisdiction conferred by section 1332 of this title'' as a reference to subsection (a) of this section.

(f) APPLICATION OF SUBSTANTIVE STATE LAW.—Nothing in this section alters the substantive law applicable to an action described in subsection (a).

(g) PROCEDURE AFTER REMOVAL.—If, after removal, the court determines that no aspect of an action that is subject to its jurisdiction solely under the provisions of section 1332(b) of title 28, United States Code, may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, the court shall strike the class allegations from the action and remand the action to the State court. Upon remand of the action, the period of limitations for any claim that was asserted in the action on behalf of any named or unnamed member of any proposed class shall be deemed tolled to the full extent provided under Federal law.

TRIAL OF PRESIDENT WILLIAM JEFFERSON CLINTON

Mr. REED. Mr. President, I ask unanimous consent that my opinion memorandum relating to the impeachment of President Clinton be printed in the RECORD.

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

[In the Senate of the United States sitting as a Court of Impeachment]

OPINION MEMORANDUM OF UNITED STATES SENATOR JOHN F. REED, FEBRUARY 12, 1999

I. CONCLUSION

Based on the evidence in the record, the arguments of the House Managers and the arguments of counsels for the President, I conclude as follows: The President has disgraced himself and dishonored his office. He has offended the justified expectations of the American people that the Presidency be above the sordid episodes revealed in the record before us. However, the House Managers have failed to prove that the President's conduct amounts to the Constitutional standard of ''other high Crimes and Misdemeanors'' subjecting him to removal from office.

II. STATEMENT OF THE CASE

On December 19, 1998, the United States House of Representatives passed H. Res. 611,[1] ''Impeaching William Jefferson Clinton, President of the United States, for high Crimes and Misdemeanors.'' The House Resolution contains two Articles of Impeachment declaring that, first, the President committed perjury before a Federal Grand Jury on August 17, 1998, and, second, the President obstructed justice in connection with the civil litigation of Paula Jones.[2]

Pursuant to Article I, Section 3 of the United States Constitution, the United States Senate convened a Court of Impeachment on January 9, 1999, and each Senator took an oath to render ''fair and impartial justice.''[3] As Alexander Hamilton stated in *Federalist No. 65*, ''what other body would be likely to feel *confidence enough in its own situation* to preserve, unawed and uninfluenced, the necessary impartiality between an *individual* accused and the *representatives of the people, his accusers*?''[4]

The obligation of the Senate is to accord the President, as the accused, the right to conduct his defense fairly and, while respecting the House's exclusive Constitutional prerogative to bring Articles of Impeachment, to put the House to the proof of its case. At the core of our task is the fundamental understanding that our system of government recognizes the rights of defendants and the responsibilities of the prosecution to prove its case. Such a basic tenet of our law and our experience as a free people does not evaporate in the rarified atmosphere of a Court of Impeachment simply because the accused is the President and the accusers are the House of Representatives.

The House of Representatives submitted a certified, written record of over 6,000 pages. By unanimously adopting S. Res. 16, on January 8, 1999, the Senate agreed to proceed with the Court of Impeachment based on ''the record which will consist of those publicly available materials that have been submitted.'' The Senate Resolution also provided that, following the presentations of the House managers, the response of the President's attorneys, and a period of questions by Senators, it would be in order to consider a Motion to Dismiss and a Motion to Depose Witnesses.

On January 27, 1999, the Senate voted 56 to 44, against dismissing the Articles of Impeachment. On the same day, by the same margin, the Senate passed a resolution, S. Res. 30, allowing the Managers to depose three witnesses: Ms. Monica S. Lewinsky,

[1] H. Res. 611, 105th Cong., 2d Sess., (1998) (enacted).

[2] In the course of deliberations in the House, no witnesses to the underlying events were called. The House Judiciary Committee held four hearings and called only one material witness, the Independent Counsel, Kenneth Starr. Mr. Starr testified that he was not present when any of the witnesses testified before the Grand Jury. The President's attorneys were allowed two days to present their defense, and they called a series of expert witnesses.

[3] Rule XXV, *Procedure and Guidelines for Impeachment Trials in the United States Senate*, Prepared by Floyd Riddick and Robert Dove, 99th Cong., 2d Sess., S. Doc. 99–33 (August 15, 1986) at 6.

[4] *The Federalist No. 65*, at 398 (Alexander Hamilton) (Clinton Rossiter, ed., 1961) (Emphasis in original).

Mr. Vernon E. Jordan, Jr., and Mr. Sidney Blumenthal. These depositions were taken on February 1, 2, and 3, 1999, respectively.

After Senators were provided an opportunity to view the videotaped depositions, the Senate reconvened as a Trial of Impeachment on February 4, 1999. At that time a motion by the House Managers to call Ms. Lewinsky to the floor of the Senate as a witness was rejected by a vote of 30 to 70. Voting 62 to 38, the Senate agreed to permit portions of the video to be used on the floor of the Senate during both a six-hour ''evidentiary'' session and for closing arguments. The White House declined to offer a motion to call witnesses. The Senate then rejected a motion by Democratic Leader Daschle to proceed directly to a vote on the Articles of Impeachment.

On Saturday, February 6, 1999, the Senate heard six hours of presentation, evenly divided, concerning the evidence obtained in the three depositions. On Monday, February 8, 1999, the Senate heard closing arguments from the House Managers and Counsel for the President. The following day, the Senate voted on a motion to open deliberations to the public. That motion received 59 votes, several short of the supermajority required to change Senate Impeachment Rules. The Senate then voted to adjourn to closed deliberations. A final vote was taken on the Articles on Friday, February 12, 1999.

III. THE CONSTITUTIONAL STANDARD

''The Senate shall have the sole Power to try all Impeachments.''[5] With these few words, the Framers of the Constitution entrusted the Senate with the most awesome power within a democratic society. We are the final arbiters of whether the conscious and free choice of the American people in selecting their President will stand.

1. ''Other High Crimes and Misdemeanors''

The Constitutional grounds for Impeachment indicate both the severity of the offenses necessary for removal and the essential political character of these offenses. ''The President, Vice President and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.''[6] The clarity of ''Treason'' and ''Bribery'' is without doubt. No more heinous example of an offense against the Constitutional order exists than betrayal of the nation to an enemy or betrayal of duty for personal enrichment. With these offenses as predicate, it follows that ''other high Crimes and Misdemeanors'' must likewise be restricted to serious offenses that strike at the heart of the Constitutional order.

Certainly, this is the view of Alexander Hamilton, one of the trio of authors of the *Federalist Papers,* the most respected and authoritative interpretation of the Constitution. In *Federalist No. 65,* Hamilton describes impeachable offenses as ''those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.''[7]

This view is sustained with remarkable consistency by other contemporaries of Hamilton. George Mason, a delegate to the Federal Constitutional Convention, declared that ''high Crimes and Misdemeanors'' refer to ''great and dangerous offenses'' or ''attempts to subvert the Constitution.''[8] James Iredell served as a delegate to the North Carolina Convention that ratified the Constitution, and he later served as a Justice of the United States Supreme Court. During the Convention debates, Iredell stated:

''The power of impeachment is given by this Constitution, to bring great offenders to punishment. . . . This power is lodged in those who represent the great body of the people, because the occasion for its exercise will arise from *acts of great injury to the community,* and the objects of it may be such as cannot be easily reached by an ordinary tribunal.''[9]

Iredell's understanding sustains the view that an impeachable offense must cause ''great injury to the community.'' Private wrongdoing, without a significant, adverse effect upon the nation, cannot constitute an impeachable offense. James Wilson, a delegate to the Federal Constitutional Convention and, like Iredell, later a Supreme Court Justice, wrote that Impeachments are ''proceedings of a political nature . . . confined to political characters, to political crimes and misdemeanors, and to political punishments.''[10]

Later commentators expressed similar views. In 1833, Justice Story quoted favorably from the scholarship of William Rawle in which Rawle concluded that the ''legitimate causes of impeachment . . . can have reference only to public character, and official duty . . . In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subject of impeachment.''[11]

This line of reasoning is buttressed by the careful and thoughtful work of the House of Representatives during the Watergate proceedings. The Democratic staff of the House Judiciary Committee concluded that: ''[b]ecause impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of president office.''[12]

This view was echoed by many on the Republican side. Minority members of the Judiciary Committee declared: ''the Framers . . . were concerned with preserving the government from being overthrown by the treachery or corruption of one man. . . . [I]t is our judgment, based upon this constitutional history, that the Framers of the United States Constitution intended that the President should be removable by the legislative branch only for serious misconduct dangerous to the system of government.''[13]

2. The Constitutional Debates

Adding impressive support to these consistent views of the meaning of the term, ''high Crimes and Misdemeanors,'' is the history of the deliberations of the Constitutional Convention. This history demonstrates a conscious movement to narrow the terminology as a means of raising the threshold for the Impeachment process.

Early in the debate on the issue of Presidential Impeachment in July of 1787, it was suggested that impeachment and removal could be founded on a showing of ''malpractice,'' ''neglect of duty'' or ''corruption.''[14] By September of 1787, the issue of Presidential Impeachment had been referred to the Committee of Eleven, which was created to resolve the most contentious issues. The Committee of Eleven proposed that the grounds for Impeachment be ''treason or bribery.''[15] This was significantly more restricted than the amorphous standard of ''malpractice,'' too restricted, in fact, for some delegates. George Mason objected and suggested that ''maladministration'' be added to ''treason and bribery.''[16] This suggestion was opposed by Madison as returning to the vague, initial standard. Mason responded by further refining his suggestion and offered the term ''other high Crimes and Misdemeanors against the State.''[17] The Mason language was a clear reference to the English legal history of Impeachment. And, it is instructive to note that Mason explicitly narrowed these offenses to those ''against the State.'' The Convention itself further clarified the standard by replacing ''State'' with the ''United States.''[18]

At the conclusion of the substantive deliberations on the Constitutional standard of Impeachment, it was obvious that only serious offenses against the governmental system would justify Impeachment and subsequent removal from office. However, the final stylistic touches to the Constitution were applied by the Committee of Style. This Committee has no authority to alter the meaning of the carefully debated language, but could only impose a stylistic consistency through, among other things, the elimination of redundancy. In their zeal to streamline the text, the words ''against the United States'' were eliminated as unnecessary to the meaning of the passage.[19]

The weight of both authoritative commentary and the history of the Constitutional Convention combines to provide convincing proof that the Impeachment process was reserved for serious breaches of the Constitutional order which threaten the country in a direct and immediate manner.

3. The Independence of Impeachment and Criminal Liability

Article One, Section three of the United States Constitution provides that ''[j]udgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office or honor, Trust or Profit under the United States: *but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.*''[20] As James Wilson wrote, ''[i]mpeachments, and offenses and offenders impeachable, [do not] come . . . within the sphere of ordinary jurisprudence. They are founded on different principles; are governed by different maxims; and are directed to different objects; for this reason, the trial and punishment of an offense on an impeachment, is no bar to a trial and punishment of the same offence at common law.''[21] The independence of the Impeachment process from the prosecution of crimes underscores the function of Impeachment as a means to remove a President from office, not because

[5] U.S. Const., art. I, §3, cl. 7.

[6] U.S. Const., art. II, §4.

[7] *The Federalist No. 65,* at 396 (emphasis in original).

[8] Max Farrand, ed., *The Records of the Federal Convention of 1787,* at 550 (1966).

[9] Jonathon Elliot, *Debates on the Adoption of the Federal Constitution* at 113 (1974).

[10] Michael J. Gerhardt, *The Federal Impeachment Process: A Constitutional and Historical Analysis* at 21 (1996).

[11] 2 Joseph Story, Commentaries on the Constitution §799 at 269–70 quoting William Rawle, A View of the Constitution of the United States at 213 (2d ed. 1829).

[12] Constitutional Grounds for Presidential Impeachment, Report by the Staff of the Impeachment Inquiry, House Comm. on Judiciary, 93rd Cong., 2d Sess. at 26 (1974).

[13] Impeachment of Richard M. Nixon, President of the United States, Report of the House Comm. on the Judiciary, 93rd Cong., 2d Sess., H. Rep 93–1305 at 364-65 (Aug. 20, 1974) (Minority Views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Maraziti and Latta).

[14] 2 Farrand, The Records of the Federal Convention of 1787, at 64–69.

[15] Id.

[16] Id.

[17] Id. (emphasis added).

[18] Id.

[19] *Id.*

[20] U.S. Const., art. I §3, cl. 7 (emphasis added).

[21] James D. Andrews, ed., *The Works of James Wilson* at 408 (1896).

of criminal behavior, but because the President poses a threat to the Constitutional order. Criminal behavior is not irrelevant to an Impeachment, but it only becomes decisive if that behavior imperils the balance of power established in the Constitution.

4. Conclusion

Authoritative commentary on the Constitution, together with the structure of the Constitution allowing independent consideration of criminal charges, makes it clear that the term, ''other high Crimes and Misdemeanors,'' encompasses conduct that involves the President in the impermissible exercise of the powers of his office to upset the Constitutional order. Moreover, since the essence of Impeachment is removal from office rather than punishment for offenses, there is a strong inference that the improper conduct must represent a continuing threat to the people and the Constitution. It cannot be an episode that either can be dealt with in the Courts or raises no generalized concerns about the continued service of the President.

IV. JUDICIAL IMPEACHMENTS

The House Managers urge that the standards applied to judges must also be applied identically to the President. Their argument finds particular urgency with respect to Article I and its allegations of perjury. Several judges have been removed for perjury, and the House Managers suggest that this experience transforms perjury into a per se impeachable offense.[22]

This reasoning disregards the unique position of the President. Unlike Federal judges, the President is elected by popular vote for a fixed term. Popular elections are the most obvious and compelling checks on Presidential conduct. No such ''popular check'' is imposed on the Judiciary. Federal judges are deliberately insulated from the public pressures of the moment to ensure their independence to follow the law rather than a changeable public mood. As such, Impeachment is the only means of removing a judge. Moreover, the removal of one of the 839 Federal judges can never have the traumatic effect of the removal of the President. To suggest that a Presidential Impeachment and a judicial Impeachment should be treated identically strains credulity.

There is an additional Constitutional factor to consider. The Constitution requires that judicial service be conditioned on ''good Behavior.''[23] This adds a further dimension to the consideration of the removal of a judge from office. Although ''good Behavior'' is not a separate grounds for Impeachment, this Constitutional standard thoroughly permeates any evaluation of judicial conduct.

We expect judges to be above politics. We expect them to be inherently fair. We expect their judgment to be unimpeded by personal considerations. And, we demand that their conduct, both public and private, reflect these lofty expectations. Judges are subject to the most exacting code of conduct in both their public life and their private life.[24] Without diminishing the expectations of Presidential conduct, it is fair to say that we expect and demand a more scrupulous standard of conduct, particularly personal conduct, from judges. A large part of these heightened expectations for judges emerges directly from their particular role in our government. They immediately and critically determine the rights of individual citizens. The fates and lives of individual Americans are literally in their hands. They personify more dramatically than anyone, including the President, the fairness and reasonableness of the law. Should they falter, the foundation of ''equal justice under law'' is more seriously strained than the failings of any other citizen.

The differences between a Presidential Impeachment and a judicial Impeachment are not merely theoretical. The Senate treats a Presidential Impeachment differently from a judicial Impeachment in both procedure and substance. The Senate routinely allows a select committee to receive testimony in the trial of a judge.[25] Such a delegation of responsibility would be unthinkable in the trial of a President. But of even more telling effect are the substantive differences between Presidential and judicial Impeachments. For example, Judge Harry Claiborne was Impeached and removed subsequent to his criminal conviction for filing a false income tax return.[26] In contrast, the inquiry into the Watergate break-in disclosed similar violations of the Federal Tax Code by President Nixon. Yet, the Judiciary Committee of the House of Representatives declined to approve an Article of Impeachment with respect to President Nixon's apparent violation of the Internal Revenue Code. A major factor in declining to press this Article was the widespread feeling that such private misconduct was not relevant to a Presidential Impeachment. According to Representative Ray Thornton (D–AR), ''there [had] been a breach of faith with the American people with regard to incorrect income tax returns . . . But . . . these charges may be reached in due course in the regular process of law. This committee is not a tax court nor should it endeavor to become one.''[27] Republican Representative Tom Railsback (R–IL) pointed out that there was ''a serious question as to whether something involving [the President's] personal tax liability has anything to do with his conduct of the office of the President.''[28]

The reconciliation of this disparate treatment is found by once again recalling the Constitution and not by simply adopting the facile notion that if Impeachment applies to judges then it must apply identically to the President. The function of Impeachment is to remove a ''civil officer'' who so abuses the particular duties and responsibilities of his office that he poses a threat to the Constitutional order. Furthermore, the Constitution provides an additional condition on the performance of judges with the ''good Behavior'' standard. The particular duties of the Judiciary together with their obligation to demonstrate ''good Behavior,'' renders comparison with the President inexact at best.[29]

The Managers' argument is ultimately unpersuasive. Rather than reflexively importing prior decisions dealing with judicial Impeachments, we are obliged to consider the President's behavior in the context of his unique Constitutional duties and without the condition to his tenure of ''good Behavior.''

V. THE STANDARD OF PROOF

Judicial proceedings, by definition, resolve an issue in dispute. A party seeks an outcome, provided for by the rule of law, and petitions for that result. The petitioning party has the burden of producing evidence. After hearing the evidence, the trier of fact, to some degree of certainty, reaches a conclusion. The critical factor is often the degree of certainty necessary.

American jurisprudence utilizes three standards of certainty: evidence beyond a reasonable doubt, clear and convincing evidence, and a preponderance of the evidence. The standard is determined by the gravity of the issue in dispute and the degree of harm resulting from an incorrect decision.

Generally, proof beyond a reasonable doubt, or to a moral certainty, is required to convict an individual of a criminal offense. *Black's Law Dictionary* defines reasonable doubt as ''a doubt as would cause prudent men to hesitate before acting in matters of importance to themselves.''[30] Sample federal jury instructions provide that ''[a] reasonable doubt is a doubt based upon reason and common sense—the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.''[31]

Clear and convincing evidence is utilized in cases involving a deprivation of individual rights not rising to criminal offenses, such as the termination of parental rights. Finally, general civil cases, which pit private parties against each other, are adjudicated on the preponderance of the evidence, i.e., more likely than not. Frequently the burden of proof is determinative of the outcome.

In an Impeachment Trial, each Senator has the obligation to establish the burden of proof he or she deems proper. The Founding

[22] For example, both Judge Walter L. Nixon, Jr. and Judge Alcee L. Hastings were convicted on charges based in perjury.

[23] ''The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior . . .'' U.S. Const., art. III, §1.

[24] The Judicial Conference of the United States publishes a Code of Conduct for United States Judges, as prepared by the Administrative Office of the United States Courts. Cannon 2 of the Code requires federal judges to ''avoid impropriety and the appearance of impropriety in all activities.'' (March, 1997). This Cannon requires a Judge to act at all times in ''a manner that promotes public confidence in the integrity and impartiality of the judiciary.'' Perceived violations of the Code could result in a complaint to the Judicial Conference, which can make referrals to the House Judiciary Committee.

[25] Rule XI, Procedure and Guidelines for Impeachment Trials in the United States Senate, Prepared by Floyd Riddick and Robert Dove, 99th Cong., 2d Sess., S. Doc. 99–33 (August 15, 1986) at 4.

[26] Proceedings of the United States Senate in the Impeachment Trial of Harry E. Claiborne, A Judge of the United States District Court for the District of Nevada, 99th Cong., 2d Sess., S. Doc. No. 99–48 (1986) at 291–98.

[27] The Evidentiary Record of the Impeachment of President William Jefferson Clinton, [hereinafter The Record] S. Doc. 106–3, 106th Cong., 1st Sess., Vol. XVII, at 10 (January 8, 1999) (quoting Hearings Before the House Comm. on the Judiciary Pursuant to H. Res. 803, 93d Cong., 2d Sess. 549 (1974) (Statement of Congressman Ray Thornton)).

[28] Id. (Statement of Congressman Railsback).

[29] Various legal scholars and authoritative commentary make this point. In support of the ''Judicial Integrity and Independence Act,'' which would have established a non-Impeachment procedure for removing judges, Senator Lott submitted an article by conservative legal scholars Bruce Fein and William Bradford Reynolds. Messrs. Fein and Reynolds concluded ''federal judges are also subject to Article III §4, which stipulates that judges shall serve only during 'good Behavior.' This is a stricter standard of conduct than the Impeachment standard. . . .'' 135 Cong. Rec. S15269 (daily ed. July 19, 1989) (*quoting* Fein and Reynolds, *Judges on Trial: Improving Impeachment*, Legal Times, October 30, 1989.) Senator Lott also submitted a statement, by then Assistant Attorney General William Rehnquist, supporting similar legislation in 1970, which stated that ''the terms 'treason, bribery and other high Crimes and Misdemeanors' are narrower than the malfeasance in office and failure to perform the duties of the office, which may be grounds for forfeiture of office held during good behavior.'' 135 Cong. Rec. S 15270 (daily ed. July 19, 1989) (*quoting The Judicial Reform Act: Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Comm. on the Judiciary*, 91st Congress, 2d Sess. (April 9, 1970) (Statement of Asst. Attorney General William H. Rehnquist, Office of Legal Counsel)).

[30] *Black's Law Dictionary* at 1265 (6th ed. 1990) (*citing U.S.* v. *Chas. Pfizer & Co., Inc.*, 367 F.Supp. 91, 101(S.D. N.Y. 1973)).

[31] Edward J. Devitt, Charles B. Blackmar, Michael A. Wolff, Kevin F. O'Maley, *Federal Jury Practice and Instructions*, §12.10 Presumption of Innocence, Burden of Proof, and Reasonable Doubt (West 1992).

Fathers believed maximum discretion was critical for Senators confronting the gravest of constitutional choices. Differentiating Impeachment from criminal trials, Alexander Hamilton argued, in *Federalist No. 65*, that Impeachments ''can never be tied down by such strict rules . . . as in common cases serve to limit the discretion of courts in favor of personal security.''[32] In this regard, Hamilton also recognized that an Impeached official would be subject to the comprehensive rules of criminal prosecution after Impeachment.[33]

Senate precedent maintains this discretion. In the 1986 Impeachment Trial of Judge Claiborne, the Senate overwhelmingly rejected a motion by the Judge to adopt ''beyond a reasonable doubt'' as the standard of proof necessary to convict and remove.[34] That vote has been interpreted by subsequent courts of Impeachment as ''a precedent confirming each Senator's freedom to adopt whatever standard of proof he or she preferred.''[35]

The constitutional gravity of an Impeachment trial suggests that the evidentiary bar be high. As I have discussed previously, the Founders viewed Impeachment as a remedy to be utilized only in the gravest of circumstances by a supermajority of Senators. The Constitution gives to the people the right to remove a President through the electoral process every four years. Only in the most extreme of examples, when the constitutional order is threatened, is Congress to intervene and remove our only nationally elected representative. Nullification of a popularly elected President is a grave action only to be taken with high certainty.

Constitutional analysis strongly suggests that in a Presidential Impeachment trial a burden of proof at least equivalent to ''clear and convincing evidence'' and more likely equal to ''beyond a reasonable doubt'' must be employed.[36] Had the charges of this case involved threats to our constitutional order not readily characterized by criminal charges, I would have been forced to further parse an exact standard. However, for all practical purposes, the Managers have themselves established the burden of proof in this case.[37]

The Articles, embodied in H. Res. 611, accuse the President of perjury and obstruction of justice. This allegation of specific criminal wrongdoing is repeated in their Trial Brief.[38] Indeed, in their presentation, the Managers have stated, ''none of us, would argue . . . that the President should be removed from the office unless you conclude he committed the crimes that he is alleged to have committed. . . .''[39] The House Managers invited the Senate to arrive at a conclusion beyond a reasonable doubt before voting to convict the President. I take them at their word.

After reading their Trial Brief, listening to their presentation of the evidence, viewing depositions, and considering their closing argument, I conclude that the President is not guilty of any of the allegations beyond a reasonable doubt. I reach this conclusion mindful of the admonishment of the Founders that Impeachment is not a punitive, but rather a constitutional remedy. Having concluded that the charges, even if proven, do not rise to the level of ''high Crimes and Misdemeanors'' an analysis of the specific charges is unnecessary. However, given the gravity of the charges alleged, an explanation is appropriate.

VI. PERJURY ALLEGATIONS OF ARTICLE I

Article I alleges that the President committed perjury before a federal Grand Jury on August 17, 1998. The charge must be measured against the fact that the full House of Representatives rejected an article of Impeachment charging the President with perjury in a civil deposition. House Judiciary Committee Republicans, citing case law, have asserted that ''perjury in a civil proceeding is just as pernicious as perjury in criminal proceedings.''[40] The Article before the Senate is further undercut by the fact that the Article fails to site, with specificity, testimony alleged to be false.

Perjury is a statutory crime, set forth in the U.S. Code at 18 U.S.C. §1621, §1623. It requires proof that an individual has, while under the oath of an official proceeding, knowingly made a false statement about facts material to the proceeding. As seasoned federal prosecutors testified before the House Judiciary Committee, perjury is a specific intent crime requiring proof of the defendant's state of mind, i.e., the charge cannot be based solely upon unresponsive, misleading, or evasive answers.[41] Both the House Managers and Counsel for the President have referred to the statutes referenced above and agree on the elements necessary to convict on a charge of perjury.

I find it hard to accept the proposition by the President's Counsel that Mr. Clinton ''testified truthfully before the Grand Jury.''[42] Rather than truthful, his testimony appears to be motivated by a desire not to commit perjury, i.e., making intentionally false statements about material facts. This dance with the law is not what one expects of a President. However, it is important to realize that in beginning his Grand Jury testimony, the President read a statement in which he admitted being ''alone'' with Ms. Lewinsky and engaging in ''inappropriate intimate''[43] contact with her. Thus, unlike the testimony he provided in the *Jones* civil deposition, the President admitted an improper, consensual relationship with Ms. Lewinsky. It is against this backdrop that the House Mangers allege perjury.

The Managers allege in H. Res. 611, which reported the Articles of Impeachment to the Senate, that the President ''willfully provided perjurious . . . testimony . . . concerning one or more of the following: (1) the nature and details of his relationship with'' Ms. Lewinsky; (2) ''prior perjurious . . . testimony'' given in the Jones deposition; (3) ''prior false and misleading statements he allowed his attorney to make'' in the Jones deposition; and (4) ''his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence'' in Jones. The facts refute some of these charges, while legal analysis, precedent and common sense preclude pursuit of the others.

1. The Nature and Details of the Clinton/Lewinsky Relationship

With regard to the first charge of perjury, the Managers fail to cite specific perjurious language in the Article; however, their Trial Brief provides several allegations. It asserts that the President's denial that he touched Ms. Lewinsky in certain areas with a specific intent is ''patently false.''[44]

The most troubling evidence that the President lied in this instance is Ms. Lewinsky's testimony to the contrary. While Ms. Lewinsky has more credibility than the President concerning the intimacies of their relationship, experienced prosecutors, appointed by both Democrats and Republicans, have testified that conflicting testimony of this type would not be prosecuted for two reasons. First, ''he said, she said'' discrepancies regarding perjury are difficult to prove beyond a reasonable doubt without third party corroboration.[45] This is particularly true in this case, where first Independent Counsel Starr and now the House Managers choose to believe Ms. Lewinsky when she helps their case, but impugn her testimony when she refutes their accusations. Second, testimony concerning sex in a civil proceeding would not normally warrant criminal prosecution.[46] Indeed, in her Senate deposition, Ms. Lewinsky was unwilling to portray the President's testimony as untruthful.[47]

In further support of the perjury allegation regarding the ''nature and details'' of the Clinton-Lewinsky relationship, the Managers also alleged that the President's Grand Jury testimony concerning his relationship with Ms. Lewinsky was perjurious because (1) his recollection of when the approximately two-year affair began differs from Ms. Lewinsky's by a few months; (2) he admitted to occasionally having inappropriate banter on the phone with Ms. Lewinsky when

[32] *The Federalist No. 65*, at 398.

[33] *Id.* at 399.

[34] 132 Cong. Rec. S15507 (daily ed. October 7, 1986).

[35] Gerhardt, *The Federal Impeachment Process: A Constitutional and Historical Analysis*, at 42 (1996).

[36] See Charles L. Black, Jr., Impeachment: A Handbook, at 14–19 (1974)

[37] The adoption of a standard of ''beyond a reasonable doubt'' in this matter should not be construed as implying that the same standard must be utilized in each and every Impeachment proceeding. Conduct of ''civil officers'' in the performance of their official duties might pose such an immediate threat to the Constitution that a less exacting standard could properly be used. Any choice of a standard of proof must, at a minimum, consider the nature of the allegations and the impact of the alleged behavior on the operation of the government.

[38] Trial Memorandum of the United States House of Representatives, In Re Impeachment of President William Jefferson Clinton, [hereinafter HMTB] (Submitted pursuant to S. Res. 16) at 1.

[39] 145 Cong. Rec. S260 (daily ed. Jan. 15, 1999) (Statement of Mr. Manager McCollum).

[40] Impeachment of William Jefferson Clinton, President of the United States, Report of the Comm. on the Judiciary, 105th Cong. 2d Sess., H. Rep. 105–830 (December 15, 1998) at 118 [hereafter Clinton Report].

[41] The Record, supra note 27, Volume X at 284 (Statement of Thomas P. Sullivan, Former U.S. Attorney, Northern District of Illinois).

[42] Trial Memorandum of President William Jefferson Clinton, In Re Impeachment of President William Jefferson Clinton, [hereinafter PCTB] (Submitted January 13, 1999, pursuant to S. Res. 16) at 38.

[43] The full text of the President's statement before the Grand Jury can be found in The Record, supra note 27, Volume III, Part 1 of 2, at 460–62; See also PCTB, supra note 42, at 39; See also HMTB, supra note 38, at 52–60.

[44] HMTB, supra note 38, at 53.

[45] The Trial Brief of the House Managers states that the President's testimony is ''directly contradicted by the corroborated testimony of Monica Lewinsky.'' Id. By ''corroborated'' the Managers refer to the fact that the Office of Independent Counsel (OIC) was extremely thorough in questioning all of Ms. Lewinsky's friends and associates to whom she described the intimate details of her contact with the President. Legally, the fact that Ms. Lewinsky relayed her recollection of the facts to various third parties does not provide additional, independent evidence of the nature of her contact with the President.

[46] The Record, supra note 27, Volume X at 284 (Statement of Thomas P. Sullivan, Former U.S. Attorney, Northern District of Illinois); see also Id. at 325, 332, 333 (testimony of Ronald K. Noble and William F. Weld).

[47] During her Senate deposition, Manager Bryant asked Ms. Lewinsky if, contrary to his defense, the President's contact with her fit into that described in the Jones deposition. In response Ms. Lewinsky said, ''I'm not trying to be difficult, but there is a portion of . . . [the] definition [used in the Jones deposition] that says, you know, with intent, and I don't feel comfortable characterizing what someone else's intent was. I can tell you that I—my memory of this relationship and what I remember happened fell within that definition . . . but I'm just not comfortable commenting on someone else's intent or state of mind or what they thought.'' 145 Cong. Rec. S1221 (daily ed. Feb. 4, 1999) (Senate deposition of Ms. Lewinsky).

it occurred as many as seventeen times; and (3) he described his relationship with Ms. Lewinsky as beginning as a ''friendship.''[48]

Disregarding the futility of attempting to judge the veracity of these statements, they appear to be totally immaterial to the Grand Jury given that the President admitted an affair with Ms. Lewinsky. Indeed, the triviality of these charges are indicative of the inability of the House Managers to utilize any sense of proportionality in adjudicating the unacceptable behavior of the President. This weakness is magnified by the fact that the House Managers have asserted that conviction on any one of their allegations of perjury warrant conviction.[49]

It is difficult to believe that anyone would charge an individual with perjury, never mind advocate the removal of a popularly-elected President, based upon an interpretation of the words ''occasionally'' or ''friendship.'' It is staggering that the Managers, after forcing Ms. Lewinsky to testify under oath during this trial, would press her on the details and timing of her first intimate contacts with the President in order to ''prove'' the relationship did not begin as a ''friendship.''[50] As demonstrated by the frustration of the American people with this line of inquiry, the resources, both human and financial, expended by the Managers were not warranted by the substance of the charge.

2. Perjury Concerning the President's Deposition Testimony in Jones

The Managers' second charge of perjury is that before the Grand Jury the President repeated false testimony he gave in the Jones deposition. This argument appears an attempt to convict the President for lies he told in his Jones deposition, an Article which the full House of Representatives rejected. Ultimately, this subsection of Article I collapses on itself.

In their Trial Brief the Managers also assert that the President reaffirmed or adopted his entire deposition testimony before the Grand Jury. This is simply not true. To make this assertion the Managers use the President's Grand Jury testimony that ''I was determined to walk through the mine field of this deposition without violating the law, and I believe I did.''[51] Before the Grand Jury the President refuted his deposition testimony that he was never alone with Ms. Lewinsky.[52] In addition to being inaccurate, these charges were rejected by the full House. Not even Independent Prosecutor Starr alleged that the President committed perjury concerning this issue.

3. Perjury With Respect to Mr. Bennett's Offer of the Lewinsky Affidavit

The third charge asserted by the Managers to substantiate Article I is that the President lied before the Grand Jury when he testified that ''I'm not even sure I paid attention to what he [Mr. Bennett] was saying.''[53] The President made this statement to the Grand Jury after being asked about Mr. Bennett's representation to the Jones court that Ms. Lewinsky's deposition verified that there was ''no sex of any kind in any manner'' between her and the President.

On page 62 of their Trial Brief the Managers assert that this testimony is perjurious because ''it defied common sense'' and the fact that the video of the deposition ''shows the President looking directly at Mr. Bennett.'' This evidence fails to provide any insight on the President's state of mind and thus cannot meet the standard of proof that the President knowingly made a false statement.

4. Perjury in Denying the Obstruction of Justice Charges

Finally, in subpart four of Article I, the Managers allege that the President lied when he denied both tampering with witnesses and impeding discovery in the Jones case. This allegation bootstraps every allegation made in Article II into an additional charge of perjury.

First, the Managers charge that the President lied when he told the Grand Jury that he instructed Ms. Lewinsky that if gifts were subpoenaed they would have to be turned over. I will address Article II's charge of obstruction later. With regard to the charge that he committed perjury, Ms. Lewinsky provided testimony in her Senate deposition which requires rejection of the allegation. Ms. Lewinsky has testified that when she asked the President if she should give the subpoenaed gifts to someone, ''maybe Betty,'' the President either failed to reply or said ''I don't know,'' or ''let me think about that.''[54] However, after the President's Grand Jury testimony, Ms. Lewinsky was pressed on the issue. When a FBI agent asked if she recalled the President telling her that she must turn over gifts in her possession should they be subpoenaed by the Jones attorneys, Ms. Lewinsky said, ''You know, that sounds a little bit familiar to me.''[55] On its face, Ms. Lewinsky's testimony would seem to make it more likely than not that the President told her to turn over whatever gifts she had.

There are two remaining allegations in the final subpart of Article I. First, it is alleged that the President committed perjury when he told the Grand Jury that on January 18, 1998, he made statements to Ms. Currie to ''refresh his memory.'' Second, the Managers allege that he lied when he testified to the Grand Jury that facts he relayed to his aides in denying an affair were ''true'' but ''misleading.''

I am troubled by the inability of the President to be completely forthright concerning both his relationship with Ms. Lewinsky and subsequent attempts to conceal this affair from his family, friends, staff, constituents, and Ms. Jones. In no way do I condone this behavior. However, seasoned federal prosecutors have made it known that the statements of this type, made by the President or an average citizen, would not, indeed should not, be prosecuted as perjury. The power and prestige of the federal government should not be brought to bear on a citizen regarding testimony in a civil case pertaining to an improper sexual affair. The Impeachment Trial has borne this out. Discrepancies in testimony between two individuals, and only those two, seldom satisfy the standard of proof beyond a reasonable doubt (or by preponderance of the evidence, for that matter.) Moreover, citizens are uncomfortable with such a role for government.

The Managers have alleged that a failure to convict the President on perjury grounds will destroy civil rights jurisprudence and allow any future President to lie with impunity. Both the Managers and our government weathered untruths during both the Iran-Contra investigation and the ethics investigation of former Speaker Gingrich. Citizens may well lack confidence in the ability of President Clinton to be honest about his personal life, this is not, however, a threat to our government. The President, as a citizen, remains subject to both criminal and civil sanctions. The Managers have failed to meet the burden of proof they set regarding the perjury charges brought against President William Jefferson Clinton.

VII. OBSTRUCTION ALLEGATIONS OF ARTICLE II

Article II alleges that the President obstructed justice by engaging ''personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.''[56] The focal point of these allegations is the *Jones* litigation. Article II outlines seven specific ''acts'' that the President used to implement this ''course of conduct or scheme.'' These ''acts'' will be analyzed to determine if they established a foundation for a finding of ''high Crimes and Misdemeanors.''

As an initial point, it is necessary to set out the elements of the crime of obstruction of justice, as set forth at 18 U.S.C. §1503. The components of the offense include: (1) there existed a pending judicial proceeding; (2) the accused knew of the proceeding; and (3) the defendant acted ''corruptly'' with the specific intent to obstruct and interfere with the proceeding or due administration of justice.[57]

The critical question in regard to the allegations is whether the President acted with the specific intent to interfere with the administration of justice. Absent a demonstrable ''act'' coupled with a demonstrable ''specific intent,'' no crime occurs. The House Managers point to the seven following acts as the basis of their claim.

1. The Lewinsky Affidavit

The Article alleges that ''[o]n or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.''[58] The allegations go to the Affidavit prepared by Monica Lewinsky in conjunction with the *Jones* litigation.

The best evidence of the President's involvement in this affidavit is the testimony of Monica Lewinsky. Ms. Lewinsky has repeatedly and consistently stated that no one asked her or instructed her to lie.

''[N]o one ever asked me to lie and I was never promised a job for my silence.''[59]

''Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie.''[60]

''Neither the President or JORDAN ever told LEWINSKY that she had to lie.''[61]

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[48] See HMTB, supra note 38, at 57; see also Clinton Report, supra note 40 at 34.

[49] H. Res. 611.

[50] 145 Cong. Rec. S1213 (daily ed. Feb. 4, 1999) (Transcript of Lewinsky Deposition in which Mr. Manager Bryant is questioning Ms. Lewinsky about the timing and intimate details of her relationship).

[51] HMTB, supra note 38, at 60.

[52] In his opening statement before the Grand Jury the President began, ''When I was alone with Ms. Lewinsky. . . .'' The Independent Counsel followed-up and asked if he was alone with Ms. Lewinsky. The President answered, ''yes.'' The Record, supra note 43 at 460–62, 481.

[53] HMTB, supra note 38, at 62.

[54] HMTB, supra note 38, at 64 (quoting Grand Jury testimony of Ms. Lewinsky).

[55] 145 Cong. Rec. S1228 (daily ed. February 6, 1999)(Senate Deposition Testimony of Ms. Lewinsky).

[56] H. Res. 611.

[57] 18 U.S.C. §1503. The House Managers periodically urge that the President is guilty of witness tampering. The crime of witness tampering is set forth at 18 U.S.C. §1512. This statute requires proof that a defendant knowingly engaged in intimidation, physical force, threats, misleading conduct, or corrupt persuasion with the specific intent to influence, delay, or prevent testimony or cause any person to withhold objects or documents from an official proceeding. Like the obstruction of justice charge, witness tampering requires proof of a specific intent to interfere with a witness.

[58] H. Res. 611.

[59] *The Record, supra* note 27, Volume III, Part 1 at 1161 (Lewinsky Grand Jury testimony 8/20/98).

[60] *Id.* at 718 (handwritten proffer of Lewinsky, given to OIC 2/1/98).

[61] *Id.* at 1398 (FBI Interview with Lewinsky 7/27/98).

''Neither the President nor anyone ever directed LEWINSKY to say anything or to lie . . .''[62]

Despite these repeated denials, the House Managers persist in arguing that the President influenced Ms. Lewinsky to file a false affidavit in a early morning phone call on December 17, 1997. They hang their case on a portion of the conversation that involved a discussion of the filing of an affidavit in response to a subpoena from the *Jones* lawyers and another portion of the conversation that dealt with the ''cover story'' that both the President and Ms. Lewinsky had been using to disguise their affair. Ms. Lewinsky has testified that, in a call on December 17, 1997, the President said ''Well, maybe you can sign an affidavit.''[63] The House Managers argue that this statement alone must convict because both the President and Ms. Lewinsky knew that a truthful affidavit could never be filed given the clandestine nature of their relationship.[64] This theory disregards the testimony of both the President and Ms. Lewinsky.[65]

Any lingering doubt about the nature of the telephone conversation on December 17, 1997, was erased by the videotaped testimony of Ms. Lewinsky before the Senate. The House Managers repeatedly argued that the President not only influenced the content of her affidavit, but that the President was knowledgeable of those contents. In a response to Mr. Manager Bryant's question, however, Ms. Lewinsky unequivocally stated that ''[h]e didn't discuss the content of my affidavit with me at all, ever.''[66] The House Mangers argued that the telephone call on December 17, 1997, was a deliberate attempt by the President to compel Ms. Lewinsky to submit an affidavit that would explicitly encompass their pre-existing cover story. Again, in response to Mr. Manager Bryant's questions, Ms. Lewinsky stated:

''Q: Now, you have testified in the Grand Jury. I think your closing comments was that no one ever asked you to lie, but yet in that very conversation of December 17th, 1997, when the President told you that you were on the witness list, he also suggested that you could sign an affidavit and use misleading cover stories. Isn't that correct?

''A: Uh—well, I—I guess in my mind, I separated necessarily signing affidavit and using misleading cover stories. So, does——

''Q: Well, those two——

''A: Those three events occurred, but they don't—they weren't linked for me.''[67]

The House Managers argued that Ms. Lewinsky could have only filed the affidavit as a result of pressure from the President. They reasoned that only the President could benefit from Ms. Lewinsky's affidavit. Ms. Lewinsky totally refuted their view. Again, in another exchange with Mr. Manager Bryant, Ms. Lewinsky stated:

''Q: But you didn't file the affidavit for your best interest, did you?

''A: Uh, actually, I did.

''Q: To avoid testifying.

''A: Yes.

''Q: Why—why didn't you want to testify? Why would not you—why would you have wanted to avoid testifying?

''A: First of all, I thought it was nobody's business. Second of all, I didn't want to have anything to do with Paula Jones or her case. And—I guess those two reasons.''[68]

After Ms. Lewinsky's videotaped testimony, it is clear that she filed the affidavit of her own volition to satisfy her own needs. The President did not influence the content of the affidavit. His remark in the December 17, 1997, conversation was, at the most, a terse response to her request rather than a elaborate directive to Ms. Lewinsky. There is no credible evidence that the President orchestrated an attempt to file a false affidavit.

2. The Lewinsky Testimony

The House Managers assert that during that same early morning telephone conversation on December 17, 1997, the President ''corruptly'' encouraged Ms. Lewinsky to give ''perjurious, false and misleading testimony if and when called to testify personally in that proceeding.''[69]

Once again, this allegation completely fails to consider the sworn testimony of Ms. Lewinsky that ''no one ever asked me to lie and I was never promised a job for my silence.''[70] Moreover, Ms. Lewinsky's videotaped testimony before the Senate provides even more detail to her previous statements.

The House Managers suggest that the ''cover story'' developed by Ms. Lewinsky and the President to disguise their relationship was explicitly urged upon Ms. Lewinsky by the President in response to the subpoena. There is little evidence to support this view. Indeed, the available evidence undermines the position of the House Managers. The following Grand Jury testimony of Ms. Lewinsky indicates that there was no explicit linkage between their ongoing denials of a relationship and the *Jones* litigation.

''Q [JUROR]: It is possible that you also had these discussions [about denying the relationship] after you learned that you were a witness in the Paula Jones case?

''A: I don't believe so. No.

''Q: Can you exclude that possibility?

''A: I pretty much can. I really don't remember it. I mean, it would be very surprising for me to be confronted with something that would show me different but I—it was 2:30 in the—I mean, the conversation I'm thinking of mainly would have been December 17th, which was——

''Q: The telephone call.

''A: Right. And it was—you know, 2:00, 2:30 in the morning. I remember the gist of it and I—I really don't think so.

''Q: Thank you.''[71]

The House Managers have presented no credible evidence to overcome the sworn testimony of the parties.

3. Concealment of Gifts

The Articles alleges that ''[o]n or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.'' The allegation refers to the transfer of gifts from Ms. Lewinsky to Betty Currie on December 28, 1997.

The House Managers argue that the President directed Ms. Currie to contact Ms. Lewinsky and arrange for the collection of personal gifts that he gave Ms. Lewinsky and for their subsequent concealment in Ms. Currie's home. There is conflicting evidence whether Ms. Currie or Ms. Lewinsky arranged for the pick-up of gifts. Regardless of who initiated the gift transfer, however, there is insufficient evidence that the President was involved in the transfer.

The chain of events leading to the transfer of gifts began with a meeting between the President and Ms. Lewinsky on December 28, 1997. Ms. Lewinsky indicated in one of her Grand Jury appearances that in the course of the meeting she raised the topic of the numerous personal gifts that the President had given her in light of the *Jones* subpoena. According to her Grand Jury testimony, Ms. Lewinsky recalled: ''[A]t some point I said to him, 'Well, you know, should I—maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said—I think he responded, 'I don't know' or 'Let me think about that.' And left that topic.''[72]

The next link in the chain is the most confusing. There is no question that Betty Currie picked up a box of gifts from Monica Lewinsky on the afternoon of December 28, 1997. However, there is still an unresolved dispute concerning who initiated this activity. Both Ms. Currie and the President denied ever having any conversation in which the President instructed Ms. Currie to retrieve the gifts from Ms. Lewinsky. Ms. Currie has repeatedly testified that it was Ms. Lewinsky who contacted her about the gifts. On the other hand, Ms. Lewinsky testified that Ms. Currie called her to initiate the transfer.

The Managers and the Committee Report cited the following passage from Ms. Lewinsky's Grand Jury testimony.

''Q: What did [Betty Currie] say?

''A: She said, ''I understand you have something to give me.'' Or, ''The President said you have something to give me.'' Along those lines. . . .

''Q: When she said something along the lines of ''I understand you have something to give me,'' or, ''The President says you have something for me,'' what did you understand her to mean?

''A: The gifts.[73]

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[62] *Id.* at 1400.

[63] *Id.* (Grand Jury Testimony of Ms. Lewinsky on 8/6/98) (*quoted in HMTB, supra* note 38, at 22.)

[64] ''Both parties knew that the Affidavit would need to be false and misleading to accomplish the desired result.'' *HMTB, supra* note 38, at 22.

[65] The President testified that ''I've already told you that I felt strongly that she could issue, that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. . . . And did I hope she'd be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.'' *The Record, supra* note 27, Volume X at 571.

Ms. Lewinsky testified to the Grand Jury on 8/6/98, that ''I thought that signing an affidavit could range from anywhere—the point of it would be to deter or to prevent me from being deposed and so that that could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going as far as maybe having to deny any kind of relationship.'' *Id.* at 844. In her Senate Deposition Mr. Manager Bryant asked Ms. Lewinsky, ''The night of the phone call, he's [the President is] suggesting you could file an affidavit. Did you appreciate the implications of filing a false affidavit with the court?'' Ms. Lewinsky replied, ''I don't think I necessarily thought at that point it would have to be false, so, no, probably not.'' 145 Cong. Rec. at S1218 (daily ed. February 4, 1999).

[66] 145 Cong. Rec. at S1307 (daily ed. February 6, 1999).

[67] *Id.* at. S1306.

[68] *Id.*

[69] H. Res. 611.

[70] *The Record, supra* note 27, Volume X at 1161 (quoting Ms. Lewinky's Grand Jury testimony on 8/20/98). *See also PCTB, supra* note 42, at 56–57.

[71] *The Record, supra* note 27, Volume X at 1119–90 (quoting Ms. Lewinsky's Grand Jury testimony on 8/20/98).

[72] *Id.* Volume III, Part 1 at 872 (Lewinsky Grand Jury testimony 8/6/98). Ms. Lewinsky discussed this exchange with the President at least ten different times during her multiple interviews and appearances as a witness. In a subsequent appearance before the Grand Jury on August 20, 1998, she again recalled this discussion and stated ''And he—I don't remember his response. I think it was something like, ''I don't know, or 'Hmm,' or—*there really was no response.*'' *Id.* at 1122 (emphasis added). It is clear from her testimony that there was no discussion of the concealment of gifts with the President.

[73] *Clinton Report, supra* note 40 at 67–68 (*quoting The Record, supra* note 27, Volume III at 874–75 (Lewinsky Grand Jury testimony 8/6/98); *see also HMTB, supra* note 38, at 32–33. However, Ms. Lewinsky's recollection of references to the President in this conversation were later cast in doubt by her subsequent testimony. In her Grand Jury testimony, Ms. Lewinsky was quoted as:

Q: [Juror]: Do you remember Betty Currie saying that the President had told her to call?

A: Right now, I don't. I don't remember. . . .

The Record, supra note 27, Volume III at 1141 (Lewinsky Grand Jury testimony 8/20/98).

The uncontradicted evidence is that the President and Ms. Currie did not discuss the gifts. The uncontradicted evidence is that the President did not initiate the discussion of gifts with Ms. Lewinsky and made no substantive response to her discussion of the gifts. The unresolved issue is whether Ms. Lewinsky or Ms. Currie initiated the transfer of gifts. Ms. Lewinsky's videotaped testimony before the Senate does not resolve the issue of who initiated the gift transfer. it does, however, add critical details that suggest that Ms. Lewinsky, of her own volition, decided to surrender certain ''innocuous'' items to the *Jones* lawyers, while concealing other gifts. First, Ms. Lewinsky had already decided *before* the meeting with the President, on December 28, 1997, to conceal items from the *Jones* layers. As she told House Manager Bryant in Senate deposition testimony: on December 22, 1997, six days before her meeting with the President, she bought the gifts that she was willing to surrender to a meeting with Vernon Jordan.

''Q: Did, uh, you bring with you to the meeting with Mr. Jordan, and for the purpose of carrying it, I guess, to Mr. Carter, items in response to this request for production?

''A: Yes.

''Q: Did you discuss these items with Mr. Jordan?

''A: I think I showed them to him. . . .

''Q: Okay. How did you select those items?

''A: Uh, actually, kind of in an obnoxious way, I guess . . . they were innocuous. . . .

''Q: In other words, it wouldn't give away any kind of special relationship?

''A: Exactly.

''Q: And was that your intent?

''A: Yes.

''Q: Did you discuss how you selected those items with anybody?

''A: No.[74]

Not only did Ms. Lewinsky decide unilaterally to withhold certain gifts, she also decided unilaterally to conceal these gifts, not at the behest of the President, but out of her own concern for privacy. In response to a question posed by Mr. Manager Bryant, Ms. Lewinsky stated, ''I was worried someone might break into my house or concerned that they actually existed, but I wasn't concerned about turning them over because I knew I wasn't going to, for the reason you stated.''[75]

The final detail added by Ms. Lewinsky's videotaped testimony may be the most significant. The President testified to the Grand Jury that Ms. Lewinsky raised the issue of gifts he responded: ''You have to give them whatever you have.''[76] When questioned by an FBI agent after the President's testimony, Ms. Lewinsky said that the words in the President's testimony, ''sounds [sic[a little bit familiar to me.''[77]

4. The Lewinsky Job Search

The Article alleges that ''[b]eginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.''[78]

This allegation focuses on the efforts to find employment for Ms. Lewinsky. Of critical importance is the undisputed fact that these efforts began long before Ms. Lewinsky was identified as a potential witness in the *Jones* case. Ms. Lewinsky herself initiated the search for employment based on her dissatisfaction with her job at the Pentagon and her perception that she would not be able to return to work in the White House. Ms. Lewinsky suggested that Vernon Jordan be enlisted to aid her, and his involvement was obtained at Ms. Lewinsky's request by Mr. Jordan's long-time friend Betty Currie.[79]

The allegation of the House Managers crashes on the same unshakable and uncontradicted statement that has bedeviled them from the start. Monica Lewinsky's unchallenged statement is that ''no one ever asked me to lie and I was never promised a job for my silence.''[80]

Unable to refute her statement, the House Managers attempted to weave a pattern of circumstantial evidence. Each attempt of the House Managers rapidly unraveled.

Mr. Manager Hutchinson argued with great force and skill in his opening presentation that December 11, 1997, was the critical date in the case against the President. It was on that date that Judge Wright ordered the President to answer certain questions about ''other women.'' As Mr. Manager Hutchinson argued on the Floor: ''And so, what triggered—let's look at the chain of events. The judge—the witness list came in, the judge's order came in, that triggered the President into action and the President triggered Vernon Jordan into action. That chain reaction here is what moved the job search along . . . . Remember what else happened on the day [December 11] again. That was the same day that Judge Wright ruled that the questions about other relationships could be asked by the *Jones* attorneys.[81]

The thrust of the House Managers' argument is that the President learned that Ms. Lewinsky was on the witness list on December 6, 1997. He met with Mr. Jordan on December 7, 1997, to enlist Mr. Jordan in the Lewinsky job search, and, with the Judge's order on December 11, 1997, making Ms. Lewinsky's testimony more likely, Mr. Jordan ''intensified'' what had been a dormant record of assistance. This scenario is demonstrably false.

The House Judiciary Committee Report acknowledges that the meeting between the President and Mr. Jordan on December 7, 1997, had nothing to do with Ms. Lewinsky.[82] Because of this lack of interest by the President and Mr. Jordan in Ms. Lewinsky's job search, the House Managers had to seize an event that could plausibly trigger the ''intensification'' of the job search which allegedly occurred on December 11, 1997.

Although December 11, 1997, was the date of a meeting between Mr. Jordan and Ms. Lewinsky, the record shows that this meeting was arranged prior to that date without the participation of the President. As early Thanksgiving, Mr. Jordan and Ms. Lewinsky had a conversation in which Mr. Jordan told her that ''he was working on her job search'' and asked her to contact him again'' around the first week of December.''[83] In response to a request from Ms. Lewinsky, Betty Currie called Vernon Jordan on December 5, 1997, to request a meeting. (This was one day before the President became aware of the appearance of Ms. Lewinsky's name on the witness list.) Mr. Jordan told Ms. Currie to have Ms. Lewinsky call him to arrange a meeting. Ms. Lewinsky did so on December 8, 1997, confirming a meeting with Mr. Jordan on December 11, 1997.

Since the appearance of Ms. Lewinsky on the witness list did not prompt any accelerated action on the job search and since the meeting of Ms. Lewinsky and Mr. Jordan was contemplated and initiated before the release of the witness list, the House Managers were forced to grasp for some other triggering event. Unwisely, as clearly stated in Mr. Manager Hutchinson's remarks, they chose the issuance of Judge Wright's order.

Judge Wright initiated a conference call with lawyers in the *Jones* case at 6:33 pm (EST) on December 11, 1997. At 7:50 pm (EST), she concluded the conference by informing the parties that she would issue an ''order to compel'' testimony about ''other women.'' At that moment, Vernon Jordan was somewhere over the Atlantic Ocean on United flight 946 bound for Amsterdam. His meeting with Ms. Lewinsky had concluded hours before. Obviously, the meeting with Ms. Lewinsky, the calls on her behalf, the ''intensification'' of the job search, had nothing to do with Judge Wright's order.

Nothing so illustrates the fragility of the House Managers' case as this dubious and discredited attempt to characterize Judge Wright's order as a catalyst for an illegal job search. Forced to beat a hasty retreat by the revelation of this attempted legal slight of hand, the House Managers reversed course and argued, unconvincingly, that they always saw the triggering event as the release of the witness list on December 5, 1997, or the President's receipt of the list on December 6, 1997.[84]

This assertion, however, contradicts the evidence that there was no discussion about Ms. Lewinsky during the meeting between the President and Mr. Jordan on December 7, 1997, and the evidence that the December 11, 1997, meeting was arranged by Ms. Lewinsky and Mr. Jordan without knowledge of the witness list or Judge Wright's order and without the assistance of the President.

Ms. Lewinsky received the active assistance of Mr. Jordan to obtain interviews and favorable recommendations with three prominent New York firms. She succeeded in obtaining a job at one of these firms, Revlon. According to representatives of these firms, they felt no pressure to hire Ms. Lewinsky.[85]

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[74] 145 Cong. Rec. S1222 (daily ed. February 4, 1999) (deposition of Ms. Lewinsky).

[75] 145 Cong. Rec. S1309 (daily ed. February 6, 1999) (deposition of Ms. Lewinsky as replayed during the trial). Manager Bryant's question is compound and slightly confusing, Ms. Lewinsky's response, combined with her testimony that she avoided testifying for reasons in her own best interest, makes clear that she had come to an independent conclusion not to provide gifts to the *Jones* attorneys.

[76] This statement has been dismissed by the House Managers as self-serving at best. However, Ms. Lewinsky's Senate Deposition testimony lends significant collaboration to the President's claim. *See supra*, note 55, p. 23.

[77] *Id.*

[78] H. Res. 611.

[79] In one of the more unusual aspects of this case, it appears that the idea to enlist Mr. Jordan's assistance came from Linda Tripp's ''advice'' to Ms. Lewinsky. *See PCTB, supra* note 42, note 103, at 78.

[80] *Supra*, note 70 at 29.

[81] 145 Cong. Rec. S234 (daily ed Jan. 14, 1999) (presentation of Manager Hutchinson).

[82] *Clinton Report, supra* note 40, at 11. This fact alone casts serious doubt on the theory of the House Managers. If Ms. Lewinsky's appearance on the witness list was disturbing to the President, and he was participating in the job search to silence Ms. Lewinsky, why would he avoid discussing this matter with Mr. Jordan?

[83] *The Record, supra* note 27, Volume III at 1465 (Lewinsky OIC interview 7/31/98).

[84] It is interesting to note that the Article alleges that the incriminating events began on December 7, 1997, and continued thereafter until January 14, 1998. Once again, these constantly shifting dates illustrate the ad hoc nature of this argument.

[85] The FBI investigators working for Mr. Starr recorded the following testimony of representatives of Revlon, American Express and Young and Rubicam: ''On December 11, 1997, HALPERIN received a telephone call from VERNON JORDAN [who recommended Ms. Lewinsky]. . . . There was no implied time constraint for fast action. HALPERIN did

(Behavior that undercuts the suggestions of the House Managers that Mr. Jordan was engaged in a high stakes effort to find Ms. Lewinsky a job at all costs.)

Mr. Jordan emphatically denied that he acted to silence Ms. Lewinsky. ''Unequivocally, indubitably, no.''[86] The President denied that he attempted to buy her silence. ''I was not trying to buy her silence or get Vernon Jordan to buy her silence.''[87] But, Ms. Lewinsky said it best: ''I was never promised a job for my silence.''[88]

5. Allowing False Statements by his Attorneys

The Article alleges that the President ''corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit . . .''[89] This allegation rests on the President's silence during the *Jones* deposition while his attorney, Mr. Robert Bennett, cited the Lewinsky affidavit to Judge Wright as a representation that ''there is no sex of any kind in any manner, shape or form.''[90]

There is no doubt about the President's silence. There is, however, doubt about the President's state of mind; whether he was aware of the interchange between his counsel and Judge Wright; and whether he formed the specific intent to use his silence to allow a falsehood to be advanced.

The President consistently denied his awareness of this exchange and testified that he was concentrating on his testimony:

''I'm not even sure I paid much attention to what he was saying. I was thinking, I was ready to get on with my testimony here and they were having these constant discussions all through the deposition. . . .''

* * * * *

''I was not paying a great deal of attention to this exchange. I was focusing on my own testimony. . . .''

* * * * *

''I'm quite sure that I didn't follow all the interchanges between the lawyers all that carefully. . . .''

* * * * *

''I am not even sure that when Mr. Bennett made that statement that I was concentrating on the exact words he used. . . .''

* * * * *

''When I was there, I didn't think about my lawyers. I was, frankly, thinking about myself and my testimony and trying to answer the questions. . . .''

* * * * *

''I didn't pay any attention to this colloquy that went on. I was waiting for my instructions as a witness to go forward. I was worried about my own testimony.''[91]

The President's statements are clearly self-serving. The only evidence introduced by the House Managers to refute the President's assertions is an invitation to the Senate to look at the videotape of the President's deposition in the *Jones* case and ''read his mind,'' and an affidavit from Barry W. Ward, Judge Wright's clerk. Mr. Ward confirms what may be inferred from the tape. ''From my position at the conference table, I observed President Clinton looking directly at Mr. Bennett while this statement was being made.''[92] But, Mr. Ward's ''mind reading'' abilities are probably on a par with the Senate's. As he indicated in an article in the Legal Times after the date of his Affidavit, Mr. Ward concluded, ''I have no idea if he was paying attention. He could have been thinking about policy initiatives, for all I know.''[93] The House Managers have not presented sufficient evidence to sustain the burden of proof with respect to this allegation.

6. The Conversations with Betty Currie

The Article alleges that ''[o]n or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding. . . .''[94] This allegation embraces two conversations between the President and Betty Currie, his executive secretary. On January 18, 1998, the day after his deposition in the *Jones* case, the President met with Ms. Currie and asked her a series of leading questions that he promptly answered himself by declaring ''Right?''[95] He had a similar conversation on January 20, 1998.

The House Managers argue that the President knew that these rhetorical questions were false and the only purpose for raising these questions was to influence the testimony of Ms. Currie.[96]

What is clear from the evidence is the fact that Ms. Currie was not influenced by the President' statements. Ms. Currie testified to that effect to the Grand Jury on July 22, 1998.

''Q: Now, back again to the four statements that you testified the President made to you that were presented as statements, did you feel pressured when he told you those statements?

''A: None whatsoever.

''Q: What did you think, or what was going through your mind about what he was doing?

''A: At the time I felt that he was—I want to use the word shocked or surprised that this was an issue, and he was just talking.''[97]

Ms. Currie added in her testimony:

''Q: That was your impression, that he wanted you to say—because he would end each of the statements with ''Right?'', with a question.

''A: I do not remember that he wanted me to say ''Right.'' He would say, ''Right?'' and I could have said, ''Wrong.''

''Q: But he would end each of those questions with a ''Right?'' and you could either say whether it was true or not true.

''A: Correct.

''Q: Did you feel any pressure to agree with your boss?

''A: None.''[98]

What is unclear from the evidence is the President's intent in making these statements. The President has testified: ''I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think.[99]

The President's assertion is not without plausibility. He initiated the conversation after the *Jones* deposition where he learned that all of the details of his relationship with Monica Lewinsky were known by the *Jones* lawyers and shortly would be public knowledge. He faced an immediate public and political disaster. Although he knew what went on, he had to know what Betty Currie knew, not to influence her testimony but to determine the potential gaps in this story. Ms. Currie was the key ''go-between'' with Ms. Lewinsky and her recollection had to be confirmed. More precisely, the President had to know if his story would be contradicted by Ms. Currie.

Given the facts, the President's explanation is as plausible as that advanced by the House Managers. They have not established beyond a reasonable doubt that the President had the specific intent to transform these events into the crimes of obstruction of justice or witness tampering.

7. The Corruption of Potential Grand Jury Witnesses

The final subpart of the second Article of Impeachment states that ''[o]n or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal Grand Jury proceeding in order to corruptly influence the testimony of those witness.'' The Managers have alleged that this caused the Grand Jury to receive ''false and misleading information.''

In his Referral, Independent Counsel Starr outlines denials about an affair with Ms. Lewinsky that the President made to members of his senior staff: John Podesta, Erskine Bowles, Sidney Blumenthal, and Harold Ickes.[100] The lies that the President told ranged from immaterial[101] to despicable.[102] These lies call into question the President's character and judgment regarding this personal affair, but they most certainly do not rise to the level of criminal behavior.

In order to constitute obstruction of justice, the President would have had to specifically intended these individuals to go before the Grand Jury and lie. It is just as plausible, if not more plausible, that the President was simply trying to conceal and deny the affair from the public at large. The

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not think there was anything unusual about Jordan's request.'' The Record, supra note 27, Volume IV, Part 1 at 1286 (FBI Interview with Richard Halperin, Executive VP and Special Counsel, Mac Andrews & Forbes (holding company for Revlon) 3/27/98); ''Fairbairn said . . . there was no perceived pressure exerted by JORDAN.'' Id. at 1087 (FBI Interview with Ursula Fairbairn, Executive Vice President, Human Resources and Quality, American Express, 2/4/98). ''JORDAN did not engage in a 'sales pitch' about LEWINSKY.'' Id. at 1222 (FBI Interview with Peter Georgescu, CEO of Young and Rubicam, 3/25/98).

[86] The Record, supra note 27, Volume IV, Part 2 at 1827 (Jordan Grand Jury testimony on 5/5/98).

[87] Id., Volume III, part 1 at 576 (Clinton Grand Jury testimony on 8/17/98).

[88] Id. at 1161 (Lewinsky Grand Jury testimony 8/20/98).

[89] H. Res. 611.

[90] Clinton Report, supra note 40, at 72.

[91] The Record, supra note 27, Volume III, Part 1 at 476–513 (Clinton Grand Jury testimony on 8/17/98).

[92] Ward Affidavit.

[93] Legal Times, February 1, 1999.

[94] H. Res. 611.

[95] HMTB, supra note 38, at 65.

[96] Ms. Currie was not a witness in the *Jones* proceeding at the time of these conversations. House Managers argue that the President knew she would be called as a witness because of his constant references to Ms. Currie in his *Jones* deposition. Moreover, Ms. Currie became a witness on January 23, 1998, when the *Jones* lawyers added her to their witness list. White House counsels argue that Ms. Currie's addition to the witness list was not prompted by the President's testimony, but by information secretly provided to the *Jones* lawyers by Linda Tripp. They further add that it cannot be reasonably assumed that the President was aware that Ms. Currie was likely to be called as a witness. Obstruction and witness tampering statutes require knowledge that the individual is or will be a witness. This argument remains unresolved, but a lack of resolution injects further uncertainty as to the allegations.

[97] *The Record, supra* note 27, Volume III, Part 1 at 668 (Currie Grand Jury testimony on 7/22/98).

[98] *Id.*

[99] *The Record, supra* note 27, Volume III, Part 1 at 593 (Clinton Grand Jury testimony on 8/17/98).

[100] *Referral from Independent Counsel Kenneth W. Starr to the House of Representatives*, House Doc. 105–310, at 198–203 (September 11, 1998).

[101] Mr. Podesta testified that the President told him that after Ms. Lewinsky left the White House (to work at the Department of Defense), she returned to visit Ms. Currie and that Ms. Currie was with them at all times. *Id.* at 88 (*quoting* Podesta Grand Jury Testimony of 6/16/98).

[102] In his Senate Deposition Testimony Mr. Blumenthal testified that he related to the Grand Jury that on 1/21/98 the President told him that Ms. Lewinsky had ''come on to'' him, he [the President] had ''rebuffed'' her, and that Ms. Lewinsky then ''threatened'' him with telling people that the two had an affair. *See* 145 Cong. Rec. S1248 (daily ed. February 4, 1999).

President spoke to his staff because of the appearance of press articles; their conversations had nothing whatsoever to do with the Grand Jury. As the Democratic Minority of the House Judiciary Committee pointed out: ''does anyone really think the President would have admitted to this relationship . . . if no Grand Jury had been sitting?''[103] Independent Counsel Starr called senior aides to the President before the Grand Jury because his prosecutors knew that the President, in furtherance of the public denials he was making, would have lied to his aides. Under the OIC and House Manager's theory, by publically denying the affair, the President tampered with all the grand jurors, who must have known of his denials. This simply cannot be the case. The President is dishonorable for lying to his aides and putting them in legal jeopardy in this way, but he is not a criminal.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 92. An act to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, as ''Hiram H. Ward Federal Building and United States Courthouse.''

H.R. 149. An act to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996 and to other laws related to parks and public lands.

H.R. 158. An act to designate the United States courthouse located at 316 North 26th Street in Billings, Montana, as the ''James F. Battin United States Courthouse.''

H.R. 171. An act to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes.

H.R. 193. An act to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System.

H.R. 233. An act to designate the Federal building at 700 East San Antonio Street in El Paso, Texas, as the ''Richard C. White Federal Building.''

H.R. 393. An act to designate the Federal building located at 1301 Clay Street in Oakland, California, as the ''Ronald V. Dellums Federal Building.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 92. An act to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North California, as ''Hiram H. Ward Federal Building and United States Courthouse''; to the Committee on Energy and Natural Resources.

H.R. 149. An act to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996 and to other laws related to the parks and public lands; to the Committee on Energy and Natural Resources.

H.R. 158. An act to designate the United States courthouse located at 316 North 26th Street in Billings, Montana, as the ''James F. Battin United States Courthouse''; to the Committee on Enrvironment and Public Works.

H.R. 171. An act to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 193. An act to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

H.R. 233. An act to designate the Federal building located at 700 East San Antonio Street in El Paso, Texas, as the ''Richard C. White Federal Building''; to the Committee on Environment and Public Works.

H.R. 393. An act to designate the Federal building located at 1301 Clay Street in Oakland, California, as the ''Ronald V. Dellums Federal Building''; to the Committee on Environment and Public Works.

MEASURE PLACED ON THE CALENDAR

The following joint resolution was read the second time and placed on the calendar:

S.J. Res. 11. Joint resolution prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations.

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–1900. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedules of Controlled Substances: Placement of Modafinil Into Schedule IV'' (DEA-17F) received on February 17, 1999; to the Committee on the Judiciary.

EC–1901. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report on the National Intelligent Transportation Systems (ITS) Program for calendar year 1997; to the Committee on Environment and Public Works.

EC–1902. A communication from the Director of the Office of Government Ethics, transmitting, a draft of proposed legislation to authorize activities of the Office of Government Ethics for Fiscal Years 2000 through 2007; to the Committee on Governmental Affairs.

EC–1903. A communication from the Chief of the Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Differential Earnings Rate for Mutual Life Insurance Companies'' (Notice 99-13) received on February 18, 1999; to the Committee on Finance.

EC–1904. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Bureau for International Narcotics and Law Enforcement Affairs; Prohibition on Assistance to Drug Traffickers'' (Notice 2840) received on February 17, 1999; to the Committee on Foreign Relations.

EC–1905. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation T: Credit by Brokers and Dealers; List of Foreign Margin Stocks'' received on February 18, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1906. 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 ''Formic Acid; Tolerance Exemptions'' (FRL5600-4) received on February 17, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1907. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Preferred Lender Program and Streamlining of Guaranteed Loan Regulations'' (RIN0560-AF38) received on February 18, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1908. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Vessels Greater Than 99 feet LOA Catching Pollock for Processing by the Inshore Component in the Bering Sea'' (I.D. 021199A) received on February 17, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1909. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''The Federal Aviation Administration Authorization Act''; to the Committee on Commerce, Science, and Transportation.

EC–1910. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Uniform Criteria for State Observational Surveys of Seat Belt Use'' (Docket NHTSA-98-4280) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1911. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Transport Category Airplanes Equipped with Day-Ray Products, Inc., Fluorescent Light Ballasts'' (Docket 96-NM-163-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1912. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines AG (IAE) V2500-A5/-D5 Series Turbofan Engines'' (Docket 98-ANE-08-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1913. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines'' (Docket 98-ANE-28-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1914. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes'' (Docket 98-NM-373-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

[103] *Clinton Report, supra* note 40, at 385 (Minority Views).

EC–1915. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglass Model MD-90-30 Series Airplanes'' (Docket 98-NM-269-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1916. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C-212 Series Airplanes'' (Docket 98-NM-141-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1917. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Textron Lycoming Reciprocating Engines IO-540 and O-540 Engines Equipped With Slick Aircraft Products Magnetos'' (Docket 98-ANE-81-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1918. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class D and Class E Airspace; St. Joseph, MO'' (Docket 98-ACE-49) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1919. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Griffin, GA'' (Docket 98-ASO-26) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1920. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Burlington, KS'' (Docket 98-ACE-45) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1921. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29463) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1922. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29464) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1923. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29465) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1924. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation and Establishment of Restricted Areas; NV'' (Docket 98-AWP-27) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1925. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727, 727-100, 727-200, 727C, 727-100C, and 727-200F Series Airplanes'' (Docket 99-NM-16-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1926. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214ST Helicopters'' (Docket 98-SW-27-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1927. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters'' (Docket 97-SW-57-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1928. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Class E Airspace; Anaconda, MT'' (Docket 98-ANM-16) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1929. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76C Helicopters'' (Docket 98-SW-81-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1930. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Schweizer Aircraft Corporation Model 269C-1 Helicopters'' (Docket 98-SW-39-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1931. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369D, 369E, 369FF, 369H, MD500N, and MD600N Helicopters'' (Docket 97-SW-61-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1932. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Agusta S.p.A. Model A109C, A109E, and A109K2 Helicopters'' (Docket 98-SW-40-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1933. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Mexico, MO'' (Docket 99-ACE-4) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1934. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Lawrenceville, GA'' (Docket 98-ASO-20) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1935. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class C Airspace and Revocation of Class D Airspace, Austin Bergstrom International Airport, TX; and Revocation of Robert Mueller Municipal Airport Class C Airport; TX'' (Docket 97-AWA-4) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1936. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-600, -700, and -800 Series Airplanes'' (Docket 98-NM-258-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1937. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Limited Dart Series Turboprop Engines'' (Docket 98-ANE-46-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1938. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes'' (Docket 98-CE-66-AD) received on February 18, 1999; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. BOND, from the Committee on Small Business:

Phyllis K. Fong, of Maryland, to be Inspector General, Small Business Administration.

(The above nomination was reported with the recommendation that she be confirmed.)

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. INOUYE:

S. 448. A bill for the relief of Ricke Kaname Fujino; to the Committee on the Judiciary.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 449. A bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:

S. 450. A bill to amend title 37, United States Code, to authorize additional special pay for board certified veterinarians in the Armed Forces and the Public Health Service; to the Committee on Armed Services.

By Mr. HATCH:

S. 451. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

S. 452. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 453. A bill to designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building''; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 454. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mrs. HUTCHISON):

S. 455. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. JOHNSON, Mr. REID, Mr. SARBANES, Mrs. BOXER, Ms. SNOWE, Mr. ROBB, Mrs. MURRAY, and Mr. ROCKEFELLER):

S. 456. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. SCHUMER, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. REED, Mrs. BOXER, and Mr. DODD):

S. 457. A bill to amend section 922(t) of title 18, United States Code, to require the reporting of information to the chief law enforcement officer of the buyer's residence and to require a minimum 72-hour waiting period before the purchase of a handgun, and for other purposes; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. BAYH, Mr. LOTT, Mr. BENNETT, Mr. GRAMS, Mr. KERREY, Mr. JOHNSON, Mr. DEWINE, Mr. CONRAD, Mr. INHOFE, Mr. MURKOWSKI, Mr. BROWNBACK, Mr. BRYAN, Mr. ROBERTS, and Mr. BURNS):

S. 458. A bill to modernize and improve the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX (for himself and Mr. HATCH):

S. 459. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds; to the Committee on Finance.

By Mr. LUGAR:

S. 460. A bill to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse''; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. MCCONNELL):

S. 461. A bill to assure that innocent users and businesses gain access to solutions to the year 2000 problem-related failures through fostering an incentive to settle year 2000 lawsuits that may disrupt significant sectors of the American economy; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. COCHRAN, and Mr. VOINOVICH):

S. 462. A bill to amend the Internal Revenue Code of 1986, the Social Security Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970 to improve the method by which Federal unemployment taxes are collected and to improve the method by which funds are provided from Federal unemployemnt tax revenue for employment security administration, and for other purposes; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. COVERDELL, and Mr. SANTORUM):

S. 463. A bill to amend the Internal Revenue Code of 1986 to provide for the designation of renewal communities, to provide tax incentives relating to such communities, and for other purposes; to the Committee on Finance.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, and Ms. LANDRIEU):

S. 464. A bill to meet the mental health and substance abuse treatment needs of incarcerated children and youth; to the Committee on Health, Education, Labor, and Pensions.

S. 465. A bill to meet the mental health substance abuse treatment needs of incarcerated children and youth; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself and Mr. DODD):

S. Res. 49. A resolution authorizing expenditures by committees of the Senate for the period March 1, 1999 through September 30, 1999; considered and agreed to.

By Mr. ALLARD:

S. Con. Res. 13. A bill authorizing the use of the Capitol Grounds for the opening ceremonies of Sunrayce 99; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. ENZI):

S. 449. A bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property; to the Committee on Energy and Natural Resources.

LEGISLATION TO TRANSFER PROPERTY IN BIG HORN COUNTY, WYOMING

Mr. THOMAS. Mr. President, I rise today to introduce legislation which was passed by the Senate during the 105th Congress and unfortunately was not passed by the House of Representatives. This measure, which would return a family farm in Big Horn County, WY, to its rightful owners, has also gained the Administration's full support.

The family of Fred Steffens lost ownership of the property where they lived and prospered for almost 70 years, as a result of a misrepresentation by the original property owners. Mr. Steffens' relatives have explored every avenue to regain the title to their property, and are left with no other option than to seek congressional assistance. I stand before you today, on behalf of my constituents, to request help in providing a timely solution to this problem. It is my hope that in doing so, this wrong can be righted.

Upon the death of Fred Steffens on January 20, 1995, his sister Marie Wambeke was appointed personal representative of the 80-acre Steffens Estate. In February 1996, Ms. Wambeke learned from the Bureau of Land Management (BLM) that she did not have a clear title to her brother's property, and she submitted a Color-of-Title application. Shortly thereafter, Ms. Wambeke was informed that her brother's property was never patented, so her application was rejected.

The injustice of this situation is that when Mr. Steffens purchased this property in 1928, he did receive a Warranty Deed with Release of Homestead from the former owners. Unfortunately, these individuals did not have a reclamation entry to assign to Mr. Steffens. In fact, 2 years before selling the property, the original owners had been informed that the land they occupied was withdrawn by the Bureau of Reclamation for the Shoshone Reclamation Project. At the same time, they were notified that they had never truly owned the property.

Unethically, this did not stop them from selling the land to Mr. Steffens in 1928. In good faith Mr. Steffens purchased the property, paid taxes on the property from the time of purchase, and is on record at the Big Horn County Assessor's office as owner of this property. Due to the dishonesty of others, his family now faces the sobering reality of losing this land unless a title transfer can be effected legislatively.

Mr. President, the legislation I am introducing today would transfer the land from Fred Steffens' Estate to his sister Marie. This property has been in their family since 1928. Through no fault of their own, these folks are being forced to relinquish rights not only to their land, but to a part of their heritage and a legacy to their future generations. I hope we can expedite this matter by turning this land over the Marie Wambeke's ownership.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF STEFFENS FAMILY PROPERTY.

(a) CONVEYANCE.—Subject to subsection (b) and valid existing rights, the Secretary of the Interior shall issue, without consideration, a quitclaim deed to Marie Wambeke of Big Horn County, Wyoming, the personal representative of the estate of Fred Steffens, to the land described in subsection (c).

(b) RESERVATION OF MINERALS.—All minerals underlying the land described in subsection (c) are reserved to the United States.

(c) LAND DESCRIPTION.—The land described in this subsection is the parcel comprising approximately 80 acres and known as ''Farm Unit C'' in the E½NW¼ of Section 27 in Township 57 North, Range 97 West, 6th Principal Meridian, Wyoming.

(d) REVOCATION OF WITHDRAWAL.—The withdrawal for the Shoshone Reclamation Project made by the Bureau of Reclamation under Secretarial Order dated October 21, 1913, is revoked with respect to the land described in subsection (c).

By Mr. HATCH:

S. 451. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. HATCH. Mr. President, I rise today to introduce private relief legislation on behalf of my constituents, Mr. Saeed Rezai, and his wife, Mrs. Julie Rezai.

As my colleagues are aware, those immigration cases that warrant private legislation are extremely rare, but are warranted in some cases. I am introducing a bill for the relief of Saeed Rezai. I had hoped that this case would not require congressional intervention. Unfortunately, it is clear that private legislation is the only means remaining to ensure that the equities of Mr. and Mrs. Rezai's case are heard and that a number of unresolved questions are answered without imposing a terrible hardship on Mr. and Mrs. Rezai and on their marriage.

I wish to take a moment, Mr. President, to provide something by way of background to this somewhat complicated case and to explain the urgency of this legislation. Mr. Rezai first came to the United States in 1986. On June 15, 1991, he married his current wife, Julie, who is a U.S. citizen. Shortly thereafter, she filed an immigrant visa petition on his behalf. Approval of this petition has been blocked, however, by the application of 204(c) of the Immigration and Nationality Act. Section 204(c) precludes the approval of a visa petition for anyone who entered, or conspired to enter, into a fraudulent marriage. The Immigration and Nationalization Service [INS] applied this provision in Mr. Rezai's case because his previous marriage ended in divorce before his 2-year period of conditional residence had expired. In immigration proceedings following the divorce, the judge heard testimony from witness on behalf of Mr. Rezai and his former wife. After considering that testimony, he found there was insufficient evidence to warrant lifting the conditions on Mr. Rezai's permanent residency and, in the absence of a qualifying marriage, granted Mr. Rezai voluntary departure from the United States. The judge was very careful to mention, however, that there was no proof of false testimony by Mr. Rezai, and he granted voluntary departure rather than ordering deportation because, in his words, Mr. Rezai 'may be eligible for a visa in the future.'

Despite these comments by the immigration judge, who clearly did not anticipate the future application of the 204(c) exclusion to Mr. Rezai's case, the INS has refused to approve Mrs. Rezai's petition for permanent residence on behalf of her husband based on that very exclusion. In the meantime, Mr. Rezai appealed the initial termination of his lawful permanent resident status in 1990. In August 1995, the 10th Circuit Court of Appeals denied this appeal and reinstated the voluntary departure order. Under current law, there is no provision to stay Mr. Rezai's deportation pending the BIA's consideration of Mrs. Rezai's current immigrant visa petition.

Mr. President, there is no question that Mr. Rezai deportation will create extraordinary hardship for both Mr. and Mrs. Rezai. Throughout all the proceedings of the past 6 years, not a single person that I know of—including the INS—has questioned the validity of Mr. and Mrs. Rezai's marriage. In fact, many that I have heard from have emphatically told me that Mr. and Mrs. Rezai's marriage is as strong as any they have seen. Given the prevailing political and cultural climate in Iran, I would not expect that Mrs. Rezia will choose to make her home there. Thus, Mrs. Rezai's deportation will result in either the breakup of a legitimate family or the forced removal of a U.S. citizen and her husband to a third country foreign to both of them.

It should also be noted that Mr. Rezai has been present in the United States for more than a decade. During this time he has assimilated to America culture and has become a contributing member of his community. He has been placed in a responsible position of employment as the security field supervisor at Westiminster College where he has gained the respect and admiration of both his peers and his supervisors. In fact, I received a letter from the interim president of Westminister College, signed by close to 150 of Mr. Rezai's associates, attesting to his many contributions to the college and the community. This is just one of the many, many letters and phone calls I have received from members of our community. Mr. Rezai's forced departure in light of these considerations would both unduly limit his own opportunities and deprive the community of his continued contributions.

By Mr. HATCH:

S. 452. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. HATCH. Mr. President, I am today introducing a private relief bill on behalf of Belinda McGregor, the beloved sister of one of my constituents, Rosalinda Burton.

Mistakes are made every day, Mr. President, and when innocent people suffer severe consequences as a result of these mistakes, something ought to be done to remedy the situation.

In the particular case of Ms. Belinda McGregor, the federal bureaucracy made a mistake—a mistake which cost Ms. McGregor dearly and it is now time to correct this mistake. Unfortunately, the only way to provide relief is through Congressional action.

Belinda McGregor, a citizen of the United Kingdom, filed an application for the 1995 Diversity Visa program. Her husband, a citizen of Ireland, filed a separate application at the same time. Ms. McGregor's application was among those selected to receive a diversity visa. When the handling clerk at the National Visa Center received the application, however, the clerk erroneously replaced Ms. McGregor's name in the computer with that of her husband.

As a result, Ms. McGregor was never informed that she had been selected and never provided the requisite information. The mistake with respect to Ms. McGregor's husband was caught, but not in time for Ms. McGregor to meet the September, 1995 deadline. Her visa number was given to another applicant.

In short, Ms. McGregor was unfairly denied the 1995 diversity visa that was rightfully hers due to a series of errors by the National Visa Center. As far as I know, these facts are not disputed.

Unfortunately, the Center does not have the legal authority to rectify its own mistake by simply granting Ms. McGregor a visa out of a subsequent year's allotment. Thus, a private relief bill is needed in order to see that Ms. McGregor gets the visa to which she was clearly entitled to in 1995.

Mr. President, I have received a very compelling letter from Rosalinda Burton of Cedar Hills, UT which I am placing in the RECORD. Ms. Burton is Ms. McGregor's sister and she described to me the strong relationship that she and her sister have and the care that her sister provided when Ms. Burton was seriously injured in a 1993 car accident.

I hope that the Senate can move forward on this bill expeditiously. Ms. McGregor was the victim of a simple and admitted bureaucratic snafu. The Senate ought to move swiftly to correct this injustice.

Mr. President, I am also including in the RECORD additional relevant correspondence which documents the background of this case.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

CEDAR HILLS, UT,
September 23, 1997.

Hon. ORRIN HATCH,
U.S. Senate.

DEAR SENATOR HATCH: This is one of the many endless attempts to seek fairness and justification regarding a very unique and still unresolved case pertaining to the future of my beloved sister, Belinda McGregor.

This is a plea on my part for you to please allow me the opportunity to humbly express in this letter, my deepest concern which is also personally shared by Senator Edward Kennedy.

It would be a challenge to explain what once started as ''the dream come true'' for my sister, Belinda, on to paper, but I hope you will grant me a moment of your time to read this attempt to seek your help, as my Senator.

Towards the end of 1993 I was the victim of a very serious car accident and I could not have coped without the support of my church and the tremendous help of my beloved sister, Belinda, after which she expressed a strong desire to come and live in Utah, to be close to me, her only sister. In 1994, therefore, a dream came true when, after applying for the DVI Program, which is held yearly, my sister's husband David, was informed by the National Visa Center, that he was selected in the 1995 Diversity Visa Lottery

Program. Finally, my sister had a chance to live near her family and friends, Belinda, who is Austrian/British, then working for the ''United Nations Drug Control Programme'' (UNDCP) at the UN Headquarters in Vienna, Austria, was so thrilled to be informed of the good news. Therefore, all the necessary documents were provided to the National Visa Center in New Hampshire.

* * * * *

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 454. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland, to the Committee on the Judiciary.

BANKRUPTCY JUDGESHIPS FOR THE DISTRICT OF MARYLAND

● Mr. SARBANES. Mr. President, I rise today on behalf of myself and my colleague from Maryland, Senator MIKULSKI, to introduce legislation that is absolutely critical to the administration of justice and the economy in our State of Maryland. This legislation provides for four additional bankruptcy judges for the federal judicial District of Maryland.

This bill represents only the most recent of our efforts to strengthen Maryland's federal bankruptcy court. Early in the 105th Congress, we introduced legislation adding two additional bankruptcy judges for the District of Maryland, in line with the then-pending request of the Judicial Conference. The House of Representatives followed suit in summer 1997, passing legislation that authorized these two judges, in addition to other new bankruptcy judgeships throughout the country. Last year, the Senate overwhelmingly passed bankruptcy reform legislation that, among other things, authorized these two judgeships, though under the Senate bill the judges were of temporary, rather than permanent, status. This legislation ultimately was not enacted into law, however, and with such inaction the problem facing Maryland's sitting bankruptcy judges has only grown. Maryland remains without the additional judgeships it so desperately needs to make our bankruptcy system work.

Our State's need for additional bankruptcy judges has long since passed the critical stage. Since November 1993, when Maryland last received an additional bankruptcy judge, the number of bankruptcy filings in the State has more than doubled. While the entire nation has witnessed a surge in bankruptcy filings over the past several years, the increase in Maryland has dwarfed the national average increase. Bankruptcy filings in Maryland in the second quarter of 1998 grew at eight times the national rate of increase for that period; for the 12-month period ending June 30, 1998, the rate of increase in Maryland was the tenth greatest of the 90 federal judicial districts in the Nation. The District of Maryland ranks first among federal judicial districts in filings per judge. As noted earlier, each House of Congress authorized two additional bankruptcy judges for Maryland during the 105th Congress. Simply put, however, the problem has outpaced this solution.

The need for the four additional judgeships sought in this legislation becomes even more evident when one considers it in the context of the case-weighting system adopted by the Judicial Conference in 1991 to assess requests for additional bankruptcy judges. Under this system, different types of bankruptcy cases are assigned different degrees of difficulty and overall weighted case-hour goals are established for the judges.

The Judicial Conference begins to consider requests for additional judges when a district's per-judge weighted caseload reaches 1500 hours. The average United States Bankruptcy Judge had a weighted case-hour load of 1429 hours per year for the 12-month period ending June 30, 1998. For that same period, Maryland's bankruptcy judges averaged a weighted case-hour load of 3020 hours—an astounding 211 percent of the national average. Not only do the Maryland figures dwarf the national average; they also dwarf the prior Maryland figures which led to legislation passed by each Houses of Congress authorizing additional judgeships. Indeed, Maryland's overall weighted case load for the 12-month period ending June 30, 1998, represented a 25% increase over its load for the prior 12-month period alone.

I ask my colleagues to consider these telling statistics:

If Maryland were to receive two additional judgeships tomorrow, its per-judge weighted caseload would still be 2013 hours—41 percent greater than the national average last year, and 34 percent greater than the 1500-hour benchmark used by the Judicial Conference to evaluate requests for additional judgeships.

If Maryland were to receive three additional judgeships tomorrow, its per-judge weighted caseload would still be 1725 hours—21 percent more than the national average, and 15 percent greater than the Judicial Conference benchmark.

Only if Maryland were to receive four additional judgeships, as requested in this bill, would the per-judge caseload in Maryland approximate the national average. And even then each Maryland judge would have a caseload of 1510 case-weighted hours—still above the 1429-hour national average, and still above the 1500-hour Judicial Conference benchmark.

The additional judgeships sought in this bill are essential not only for effective judicial administration, but also for Maryland's economy. Bankruptcy laws foster orderly, constructive relationships between debtors and creditors during times of economic difficulty. Their effective and expeditious implementation results in businesses being reorganized, jobs (provided by creditors and debtors) preserved, and debts managed fairly. Overworked bankruptcy courts have a destabilizing effect on this system, and the inevitable delays occasioned by the lack of judges harm creditors and debtors, imperiling Maryland's businesses and the people they employ.

It is expected that bankruptcy reform legislation will be one of the first items on the Senate's agenda now that it has resumed legislative business. Adding judgeships in Maryland's and other bankruptcy courts in need of relief is an essential component of any such reform, given that the legislation we are contemplating will not only not ease the burdens on these courts, but in fact will increase these burdens by imposing new responsibilities on our nation's bankruptcy judges. And even if comprehensive bankruptcy reform fails or is delayed, the current state of affairs facing Maryland's bankruptcy court requires immediate action in the form of adding judges to that court.

In closing let me once again commend the efforts of Maryland's four sitting bankruptcy judges—Chief Judge Paul Mannes and Judges Duncan Keir, James Schneider, and Steve Derby. Their dedication to the administration of justice is especially impressive given the extraordinary burdens placed on them—burdens which the Senate ought to ease at the earliest possible instance.●

By Mr. DURBIN (for himself and Mrs. HUTCHISON):

S. 455. A bill to amend the Immigration and Nationality Act with Respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

NURSING RELIEF FOR DISADVANTAGED AREAS ACT OF 1999

Mr. DURBIN. Mr. President, I rise today with by colleague, Senator KAY BAILEY HUTCHISON to introduce the Nursing Relief for Disadvantaged Areas Act of 1999. Today, some of our nation's poorest rural and inner-city communities face a crisis—they may soon have inadequate or no hospital healthcare because nurses are unwilling to work in these neighborhoods. The Nursing Relief for Disadvantaged Areas Act of 1999 will ensure that hospitals located in these desperately underserved areas can continue to provide adequate healthcare to our most needy communities.

Hospitals located in underprivileged areas often experience severe difficulty in attracting nurses. These hospitals operate in the middle of some of the harshest poverty and crime in our country. The employees of these hospitals often treat the worst and most troubling cases.

The condition of the surrounding area imperils the ability of these hospitals to recruit and maintain an adequate nursing staff. These circumstances have pushed some hospitals into a financial crisis, threatening the quality of healthcare to those most in need.

For the past eight years, this problem has been addressed by the H(1)(a) visa program which has allowed these hospitals to hire nonimmigrant nurses. Unfortunately, the H(1)(a) visa program sunset in 1997, and so once again such hospitals are in crisis. By replacing the H(1)(a) visa, the Nursing Relief Act will alleviate this crisis.

The true beneficiary of this program will not be the hospitals, but the underprivileged communities which rely on the hospitals' services. Let me tell you a story about the role that this program can play in the health of a community. The story is about the St. Bernard Hospital on the South Side of Chicago.

St. Bernard Hospital is the only remaining hospital in the Englewood community, which serves over 100,000 people. It is located in one of the poorest and most crime ridden neighborhoods in the country. Over the years, St. Bernard has become indispensable to its community. Even though it has not been designated as a trauma center, St. Bernard receives the second highest number of ambulance runs from the Chicago Fire Department. St. Bernard also provides free vision exams and free screening for blood pressure, cholesterol, diabetes, and sickle cell anemia. In addition, schoolchildren receive free physicals and inoculations.

St. Bernard Hospital also offers a great number of outreach and community services. A food pantry is stocked, and clothes are made available for patients in need. St. Bernard is sponsoring a project for affordable housing in the community. The hospital has opened four family clinics in Englewood to provide safe and easy access to healthcare for community residents. Physicians from St. Bernard visit senior housing facilities on a regular basis, and the hospital has been recognized by Catholic Charities for its work with senior housing and healthcare.

In addition, St. Bernard is by far the largest employer in the Englewood area. When the hospital faces a crisis, many jobs in the community are placed at risk.

Even though the health of Englewood relies on this hospital, St. Bernard almost had to close its doors in 1992. After aggressive recruitment efforts, the hospital was unable to attract enough healthcare professionals to maintain its services. The hospital was especially in need of registered nurses.

The problem had been solved in part by hiring foreign nurses through the H(1)(a) visa program. The hospital had gone through great lengths to hire domestic nurses, and was using the H(1)(a) program only as a last alternative to closing its doors.

In the first half of 1997, for example, the hospital placed want ads in the Chicago Tribune and received approximately 200 responses. However, almost 75 percent of the responses declined to interview when they learned where the hospital was located. St. Bernard has also tried to hire nurses through nurse registries. However, the rates of the registries would cost the hospital more than $2 million a year, an unsustainable expense for an already financially burdened hospital.

Clearly, the H(1)(a) visa program had been offering St. Bernard a way to maintain its service to the community when no other option was available. In 1997, even that option was eliminated.

The Nursing Relief for Disadvantaged Areas Act will ensure that hospitals like St. Bernard can keep their doors open to the public and continue to support their community. In addition, however, the bill has been designed to protect the jobs of domestic nurses and to ensure that hospitals use the visa program faithfully and only as a last resort solution.

This bill is more narrowly targeted than the old H(1)(a) visa program. The measure ensures that nurses can only be brought into the United States by hospitals that have no alternative. In short, we have made every effort to ensure that no American nurse will lose his or her job as a result of this bill. While we want to assure that these hospitals have an adequate nursing staff, we must also guarantee that foreign nurses are not taking away jobs from domestic nurses.

Let me tell you what this bill does:

It establishes a nonimmigrant classification for nurses in health professional shortage areas. The program provides non-immigrant visas for 500 nurses each year to work in hospitals where there are severe nursing shortages.

The Nursing Relief Act protects the jobs of domestic nurses in three separate ways:

First, the measure requires that a hospital must certify that it has gone through great lengths to hire and retain domestic nurses before it can use this visa program to hire nonimmigrant nurses.

Second, the measure requires that nonimmigrant nurses must be paid the same wages and work under the same conditions as domestic nurses. In addition, nonimmigrant nurses cannot be hired in order to disrupt the activities of labor unions. These provisions ensure that hospitals cannot undercut the working conditions of domestic nurses.

And third, the measure limits the number of nonimmigrant nurses who may enter the United States in any given year. The Act provides spaces for only 500 nonimmigrants each year, and it caps the number of nurses who may enter each state.

In addition, the Nursing Relief Act provides for serious penalties for abuse, thus ensuring that hospitals will not misuse this new visa category. Moreover, the bill guarantees that hospitals use this program faithfully by narrowly defining the hospitals which are eligible. In order to hire nonimmigrant nurses through this visa program, hospitals must fulfill four strict requirements.

First, the hospital must be located in an area which has been defined by the Department of Health and Human Services as having a shortage of health care professionals.

Second, the hospital must have at least 190 acute care beds.

Third, the hospital must have at least 35 percent of its in-patient days reimbursed by Medicare.

Fourth, the hospital must have at least 28 percent of its in-patient days reimbursed by Medicaid.

All of these measures ensure that the Nursing Relief Act will serve as a relief to our communities rather than a loophole in the immigration laws.

Thank you, Mr. President, for the opportunity to introduce this important and very timely initiative. I hope that my colleagues will join me and support the Nursing Relief for Disadvantaged Areas Act of 1999 so that every hospital can maintain an adequate nursing staff regardless of its location.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 455

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 ''Nursing Relief for Disadvantaged Areas Act of 1999''.

SEC. 2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking ''; or'' at the end and inserting the following: '', or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or''.

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

''(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

''(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

''(B) has passed an appropriate examination (recognized in regulations promulgated

in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

''(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

''(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

''(i) The facility meets all the requirements of paragraph (6).

''(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

''(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

''(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

''(v) There is not a strike or lockout in the course of a labor dispute, the facility did not lay off and will not lay off a registered nurse employed by the facility within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

''(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

''(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

''(viii) The facility will not, with respect to any alien issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c)—

''(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

''(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of filing.

''(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

''(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

''(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

''(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

''(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Nothing in this subparagraph shall require a facility to take more than one step if the facility can demonstrate that taking a second step is not reasonable.

''(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

''(i) shall expire on the date that is the later of—

''(I) the end of the one-year period beginning on the date of its filing with the Secretary of Labor; or

''(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

''(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

''(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

''(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

''(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

''(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

''(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

''(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

''(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

''(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

''(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

''(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

''(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of such visas issued for employment in each State in each fiscal year shall not exceed the following:

''(A) For States with populations of less than 9,000,000, based upon the 1990 decennial census of population, 25 visas.

''(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 visas.

''(C) If the total number of visas available under this paragraph for a fiscal year quarter exceeds the number of qualified nonimmigrants who may be issued such visas during those quarters, the visas made available under this paragraph shall be issued without regard to the numerical limitation under subparagraph (A) or (B) of this paragraph during the last fiscal year quarter.

''(5) A facility that has filed a petition under section 101(a)(15)(H)(i)(c) to employ a nonimmigrant to perform nursing services for the facility—

''(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

''(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

''(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

''(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

''(A) As of March 31, 1997, the hospital was located in a health professional shortage

area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

''(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its cost reporting period beginning during fiscal year 1994—

''(i) the hospital has not less than 190 licensed acute care beds;

''(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

''(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.

''(7) For purposes of paragraph (2)(A)(v), the term 'lay off', with respect to a worker—

''(A) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract; but

''(B) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

Nothing in this paragraph is intended to limit an employee's or an employer's rights under a collective bargaining agreement or other employment contract.''.

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulations are first promulgated under subsection (d).

SEC. 3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section 2(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to the Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

SEC. 4. CERTIFICATION FOR CERTAIN ALIEN NURSES.

(a) IN GENERAL.—

(1) Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

''(r) Subsection (a)(5)(C) shall not apply to an alien who seeks to enter the United States for the purpose of performing labor as a nurse who presents to the consular officer (or in the case of an adjustment of status, the Attorney General) a certified statement from the Commission on Graduates of Foreign Nursing Schools (or an equivalent independent credentialing organization approved for the certification of nurses under subsection (a)(5)(C) by the Attorney General in consultation with the Secretary of Health and Human Services) that—

''(1) the alien has a valid and unrestricted license as a nurse in a State where the alien intends to be employed and such State verifies that the foreign licenses of alien nurses are authentic and unencumbered;

''(2) the alien has passed the National Council Licensure Examination (NCLEX);

''(3) the alien is a graduate of a nursing program—

''(A) in which the language of instruction was English;

''(B) located in a country—

''(i) designated by such commission not later than 30 days after the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999, based on such commission's assessment that the quality of nursing education in that country, and the English language proficiency of those who complete such programs in that country, justify the country's designation; or

''(ii) designated on the basis of such an assessment by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection; and

''(C)(i) which was in operation on or before the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999; or

''(ii) has been approved by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection.''.

(2) Section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)) is amended by striking ''Any alien who seeks'' and inserting ''Subject to subsection (r), any alien who seeks''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(c) ISSUANCE OF CERTIFIED STATEMENTS.—The Commission on Graduates of Foreign Nursing Schools, or any approved equivalent independent credentialing organization, shall issue certified statements pursuant to the amendment under subsection (a) not more than 35 days after the receipt of a complete application for such a statement.

By Mr. CONRAD (for himself, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. JOHNSON, Mr. REID, Mr. SARBANES, Mrs. BOXER, Ms. SNOWE, Mr. ROBB, Mrs. MURRAY, and Mr. ROCKEFELLER):

S. 456. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

INFORMATION TECHNOLOGY TRAINING ACT

Mr. CONRAD. Mr. President, throughout the 105th Congress, the Administration and the Congress focused considerable attention on information technology (IT) issues, particularly the difficulties that many American companies are experiencing in recruiting skilled workers to fill key positions in information technology.

The Department of Commerce, early in the 105th Congress, released a study, ''America's New Deficit: The Shortage of Information Technology Workers,'' alerting us to the severe shortage of information technology workers. This report was supported by a study from the Information Technology Association of America, ''Help Wanted 1998: A Call for Collaborative Action For the New Millennium,'' which estimated that there are more than 340,000 highly skilled positions in information technology that are not filled. Moreover, the Department of Labor projected that our economy will require more than 130,000 information technology jobs in three fields—systems analysts, computer scientists and engineers, and computer programmers—every year for the next 10 years.

Mr. President, the shortage of skilled high-tech workers is not unique to any one region of the country—Silicon Valley, Dallas, Atlanta, or Northern Virginia. It is a matter of urgent concern across the country. The shortage affects every State, every sector of the economy, and its impact was documented during a conference of more than 350 educators, State officials, and business community leaders that I hosted last fall in Bismarck, North Dakota. The conference was scheduled to examine the challenges and opportunities of information technology in the 21st century.

Without question, the shortage of skilled IT workers is a major concern for State officials and the North Dakota business community. During the conference, many North Dakota business leaders from firms, including Great Plains Software, Gateway, U.S. West, and North Central Data Co-op, confirmed the difficulties they are having in recruiting employees with qualified information technology skills. The business community and educators, representing all levels of education, emphasized the importance of expanding opportunities in information technology training and education.

Last year, during the closing days of the 105th Congress, we took the first step to respond to the concern over the shortage of skilled high-tech workers by increasing the annual cap on H1–B visas for foreign workers recruited to work in U.S. high-tech industries. As important as this first step is, the increase in H1–B visas by itself will not adequately respond to the shortage of

skilled workers in the U.S. Nor is it acceptable to authorize an increase in the number of foreign workers coming to the U.S. to fill IT vacancies without taking steps to ensure that American workers and students have opportunities to train and qualify for these excellent opportunities.

Mr. President, that is why, during consideration of the American Competitiveness Act last year, I introduced legislation, S. 2089, to allow employers an income tax credit for information technology training expenses paid on behalf of employees or other individuals who are entering information technology careers. I believe it is essential that we provide every opportunity to American workers and individuals to become aware of opportunities in information technology, and to ensure that training and education is available at all levels. I regret that we did not adopt this important initiative during the 105th Congress.

Today, I am introducing this legislation to provide employers a tax credit for information technology training. I am very pleased that Senators FEINSTEIN, JOHNSON, DASCHLE, SARBANES, BOXER, SNOWE, MURRAY, REID, and ROBB are cosponsoring this important initiative. This legislation is also endorsed by the Information Technology Association of America, the Software and Information Industry Association, the Computing Technology Industry Association, the Information Technology Training Association, and the American Society For Training and Development.

Under this legislation, the tax credit would be an amount equal to 20 percent of information technology training program expenses, not to exceed $6,000 in a taxable year. The value of the credit would increase by 5 percent if the IT training program is operated in an Empowerment Zone, Enterprise Community, Rural Economic Area Partnership (REAP) zone, in a school district in which at least 50 percent of the students in the school district participate in the school lunch program, in an area designated as a disaster zone by the President or Secretary of Agriculture, or associated with a small business with no more than 200 employees.

Mr. President, last year we responded to the IT worker shortage by increasing the opportunities for skilled high-tech workers from other countries to come to the U.S. to work in the information technology field. Now we have an obligation to make certain that the same exciting opportunities in information technology are available to American workers and other individuals interested in information technology careers. I welcome additional cosponsors of this legislation, and I strongly urge my colleagues to incorporate this important bill in the tax legislation that we are expected to consider in the 106th Congress.

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

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

S. 456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45D. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

''(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred—

''(1) by the taxpayer with respect to a program operated in—

''(A) an empowerment zone or enterprise community designated under part I of subchapter U,

''(B) a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act,

''(C) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Disaster Relief and Emergency Assistance Act in the taxable year or the 4 preceding taxable years,

''(D) a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, or

''(E) an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone, or

''(2) by a small employer.

''(c) LIMITATION.—The amount of information technology training program expenses with respect to an individual which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

''(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology training program expenses' means expenses paid or incurred by reason of the participation of the employer in any information technology training program.

''(2) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The term 'information technology training program' means a program—

''(A) for the training of computer programmers, systems analysts, and computer scientists or engineers (as such occupations are defined by the Bureau of Labor Statistics),

''(B) involving a partnership of—

''(i) employers, and

''(ii) State training programs, school districts, university systems, or certified commercial information technology training providers, and

''(C) at least 50 percent of the costs of which is paid or incurred by the employers.

''(3) CERTIFIED COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term 'certified commercial information technology training providers' means a private sector provider of educational products and services utilized for training in information technology which is certified with respect to—

''(A) the curriculum that is used for the training, or

''(B) the technical knowledge of the instructors of such provider,

by 1 or more software publishers or hardware manufacturers the products of which are a subject of the training.

''(e) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed 200 or fewer employees on each business day in each of 20 or more calendar weeks in such year or the preceding calendar year.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to information technology training program expenses (determined without regard to the limitation under subsection (c)).

''(g) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.''

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following:

''(13) the information technology training program credit determined under section 45D.''

(c) NO CARRYBACKS.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the information technology training program credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 45D. Information technology training program expenses.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of enactment of this Act in taxable years ending after such date.

INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA,
Arlington, VA, February 5, 1999.

Hon. KENT CONRAD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CONRAD: The Information Technology Association of America (ITAA) and our member companies strongly support tax credits for information technology (IT) training. With over 346,000 IT jobs currently vacant in the United States, American industry faces a severe shortage of trained IT professionals. Filling these positions is imperative to the growth of our national economy and securing our place as a leader in the global marketplace.

In order to grow the nation's IT workforce, we must provide educational opportunities for all Americans that will allow them to

enter to this high-growth, high-wage industry Training is readily available at both public institutions of higher education and private training facilities, but many cannot afford to take advantage of them.

ITAA and our members urge you to cosponsor Senator Conrad's proposed legislation that would amend the Internal Revenue Code of 1986 allowing employers a credit against income tax for IT training expenses paid or incurred. It is critical that we do everything we can to provide affordable access to IT training for all Americans. If you need any additional information, please contact me at 703–284–5340 or *hmiller@itaa.org* or Bob Foust with Senator Conrad at 202–224–2043.

Sincerely,

HARRIS N. MILLER,
President.

SOFTWARE INFORMATION INDUSTRY ASSOCIATION
Washington, DC, February 18, 1999.

Re endorsement of information technology training tax credit legislation.

Hon. KENT CONRAD,
U.S. Senator,
Washington, DC 20510.

DEAR SENATOR CONRAD: Recognizing that increasing the supply of highly qualified information sector workers is an essential cornerstone for sustaining U.S. economic prosperity, the Software & Information Industry Association (SIIA) is pleased to endorse your legislative proposal to encourage greater business investment in workforce skills training.

SIIA is the principal trade association of the software and information industry, representing 1,400 leading high-tech companies that develop and market software and electronic content for business, education, entertainment and the Internet. SIIA was formed Jan. 1, 1999, as a result of a merger between the Software Publishers Association and Information Industry Association.

To meet the demands of the Information Age, virtually every business in every economic sector is undergoing a transformation that requires its workers to use modern workplace technologies to achieve higher levels of productivity. Unfortunately, not enough of these ''high-performance'' workers exist to meet increasing demand. As the Department of Commerce has estimated, hundreds of thousands of positions will continue to go unfilled in the next decade unless we improve our ability to build and sustain a modern, high-tech workforce.

Your proposal offers an important opportunity to focus national attention on this problem. It would amend the Internal Revenue Code to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer. The credit would be an amount equal to 20 percent of training program expenses up to $6,000 a year. The credit would increase by five percent for expenses paid or incurred in programs operated in specific underserved locations.

The proposal complements bills enacted in 1998 that seek to improve the technical skills of high school students and adult learners, provide better training opportunities for incumbent and dislocated workers and ease immediate high-tech worker shortages by increasing the number of foreign workers allowed in the U.S. on a temporary basis. We strongly believe that passage of this legislation will signal a continued national commitment to creating new opportunities for American workers while addressing the urgent need to alleviate the undersupply of technology-proficient workers.

We look forward to working with you and your Senate colleagues to gain swift passage.

Sincerely,

KENNETH A. WASCH,
President.

AMERICAN SOCIETY FOR TRAINING & DEVELOPMENT,
February 2, 1999.

Hon. KENT CONRAD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the American Society for Training & Development (ASTD), I want to thank you for introducing legislation in the 106th Congress, that would offer employers income tax credits that can be used to offset IT training expenses.

ASTD is the largest professional association in the field of workplace learning and performance with 70,000 members who work in more than 15,000 multinational corporations, small and medium-sized business, government agencies, colleges and universities. ASTD works with the federal government as well as the business, labor and education communities to support public policies and programs that encourage continuous learning opportunities for all segments of the working population.

ASTD is a supporter of efforts to address the high-tech job shortage. This legislation will serve as a significant incentive for employer investment in continuing education while providing employees with an opportunity to maintain and improve skills in this rapidly advancing industry.

ASTD appreciates your support for this important tax credit. We look forward to working with you to move a bill forward.

Sincerely,

LAURA LISWOOD,
President and CEO.

INFORMATION TECHNOLOGY TRAINING ASSOCIATION, INC.,
Austin, TX, February 22, 1999.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

Hon. JIM MORAN,
House of Representatives,
Washington, DC.

DEAR SENATOR CONRAD AND REPRESENTATIVE MORAN: The Information Technology Training Association (ITTA) congratulates and thanks both of you for introducing information technology training tax credit legislation in the U.S. Senate and House of Representatives. In 1999 alone, our 380 member companies will train over 5,000,000 U.S. workers on various IT topics. While most of our members are responsible for providing the actual training to corporations, we also represent various Fortune 1000 companies that conduct their own internal IT Training. More than ever, we know that the value of trained and skilled IT workers is crucial to the continued growth of the United States in their high-tech arena. Many of our members cite this as the number one problem facing their businesses today.

Our nation's most important asset is our people. It is important for the nation's economy to invest in the future of its citizens and businesses. The most productive and cost effective way to achieve that objective is to concentrate the federal investment in incentives that most effectively help citizens enter existing high-paying jobs. For that reason directing this incentive to areas where jobs already exist is a prudent decision. Industry studies have revealed that at lest 340,000 high paying jobs are currently available. Since those receiving training will find jobs waiting for them when they finish their training, the country will immediately begin recouping its investment in the form of additional personal and corporate income taxes that would otherwise not be generated.

Tax credits are an efficient way to deliver incentives to small and medium-sized businesses, which typically are unable to afford the costs of IT training and lack the resources to keep up with paperwork required for other support programs. There is also a shortage of industry workers with technical/vocational IT skills. Many economically disadvantaged students and displaced workers enter the industry after completing single courses or series of technical courses in order to acquire the skills needed to become certified.

We also want to acknowledge our support for your decision to include the private-sector IT Training providers in this legislation. Due to the rapidly changing nature of technology, the private sector has led the way in developing successful training programs on the latest and most current technologies. Many of these companies have also partnered with software and hardware vendors to ensure that the training on their products is accurate and of a high quality. We believe that the only way to have an impact on the IT worker shortage is to include all providers of training: private and public.

Your legislation is a prudent, cost-effective, and user-friendly tool that will simultaneously help economically disadvantaged students and displaced workers, the companies in our industry, U.S. competitiveness, and our trade balance. We thank you for your leadership on this important issue.

Sincerely,

PETER SQUIER,
President.

COMPTIA PUBLIC POLICY COMMITTEE,
Arlington, VA, February 22, 1999.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

Hon. JIM MORAN,
House of Representatives,
Washington, DC.

DEAR SENATOR CONRAD AND REPRESENTATIVE MORAN: The Computing Technology Industry Association (CompTIA) congratulates and thanks both of you for introducing technology training tax credit legislation in the US Senate and House of Representatives. CompTIA represents 7,800 computer and semiconductor manufacturers, distributors, software publishers, resellers, retailers, Internet, long distance training and other service companies. We believe that productive investment in education and training are critical to maintaining US economic strength.

Our nation's most important asset is our people. It is important for the nation's economy to invest in the future of its citizens and businesses. The most productive and cost effective way to achieve that objective is to concentrate the federal investment in incentives that most effectively help citizens enter existing high-paying jobs. For that reason directing this incentive to areas where jobs already exist is a prudent decision. Industry studies have revealed that at least 340,000 high paying jobs are currently available. Since those receiving training will find jobs waiting for them when they finish their training, the country will immediately begin recouping its investment in the form of additional personal and corporate income taxes that would otherwise not be generated.

Tax credits are an efficient way to deliver incentives to small businesses, which typically are unable to afford the high costs of technology training and lack the manpower to keep up with paperwork required to qualify for other support programs. There is also

a shortage of industry workers with technical/vocational IT skills. Many economically disadvantaged students and displaced workers enter the industry after completing single courses or series of technical courses in order to acquire the skills needed to become certified. CompTIA is currently assisting in school-to-work programs in over 100 high schools and assisting the Head Start program at the Department of Labor develop introductory IT certifications for their constituents.

Your legislation is a prudent, cost-effective, and user-friendly tool that will simultaneously help economically disadvantaged students and displaced workers, the companies in our industry, US competitiveness, and our trade balance. We thank you for your leadership on this important issue.

Sincerely,

ALAN P. HALD,
Chairman, CompTIA Public Policy Committee.

SUNDOG INTERACTIVE, INC.,
Fargo, ND, February 24, 1999.

PROPOSED LEGISLATION WOULD HELP HIGH-TECH STARTUPS

FARGO, N.D.—A shortage of high-tech employees has eclipsed job creation as one of the most pressing economic issues in many areas of the country, especially in rural states like North Dakota. A bill to be introduced by Sen. Kent Conrad would help high-tech startups train and retain highly-skilled information technology (IT) workers.

In North Dakota, the farm crisis is driving many young people out of the state, and economic conditions make it more difficult for companies to compete for top talent.

One company that has seen firsthand how difficult it can be to find and keep skilled IT workers is Fargo-based new media and software developer Sundog Interactive. As a high-tech startup in the heart of America's breadbasket, Sundog is forced to compete with much larger firms on a national level, not only for clients but also for talent.

''From the outside, Fargo might not seem like an ideal location to start a high-tech company,'' explains Brent Teiken, Sundog Interactive's cofounder and president. ''But our community has three major colleges and universities and a large technical college, so we produce a high level of educated, skilled and motivated young people. Unfortunately, many of these bright minds leave the area after graduation because employers in larger metropolitan areas can offer higher salaries and better benefits. The tax credit legislation Senator Conrad is proposing should help level the playing field.''

Sen. Conrad's bill would allow high-tech companies like Sundog Interactive to earn tax credits on the information technology training they provide employees.

''In the long run, everybody would win,'' Teiken says. ''We already rely on our area universities for qualified interns. This legislation would provide an incentive to keep doing that—and the working capital to grow our company and offer more competitive salaries as a result. Students would gain real-world knowledge and experience they could take with them wherever they go. And more students would consider remaining in the state after graduation, since employers here would be able to afford better wages.''

Teiken is scheduled to appear with Sen. Conrad at his press conference on Wednesday, February 24, 1999, in Washington, D.C., in support of the senator's proposed legislation. Teiken is also a member of the North Dakota Information Technology Council, a group Sen. Conrad helped organize to address IT concerns in the state.

To learn more about Sundog Interactive, visit the company's Web site at http://www.sundoginteractive.com. The News section of the site includes a feature story which provides Teiken's perspective on the future of information technology in the state.

CISCO SYSTEMS CEO CHAMBERS: HIGH-TECH TRAINING KEY TO PROSPERITY IN THE INTERNET ECONOMY

BI-PARTISAN SENATE BILL DEMONSTRATES U.S. LEADERSHIP

WASHINGTON, DC.—February 24, 1999—Cisco Systems CEO and President John Chambers today hailed a bi-partisan effort in the Senate to focus on high-tech job-training and education programs.

''As the Internet Economy takes shape, there is a critical need to prepare our workers for the jobs of tomorrow. There is already a shortage of skilled high-tech workers and more than 1.8 million new jobs will be created as the Internet Economy transforms our economy,'' said Chambers.

With these challenges ahead, Chambers praised lawmakers for ensuring that policymakers will address the pressing need for training and education.

''I salute Sen. Kent Conrad—along with Sen. Olympia Snowe, Sen. Dianne Feinstein, Sen. Barbara Boxer and others—for highlighting the need for the government and the private sector to partner to train workers for the Internet Economy,'' he added.

Cisco Systems, the worldwide leader in networking for the Internet, has already worked with Sen. Conrad on a number of high-tech initiatives, including the establishment of a Cisco Networking Academy in the State of North Dakota. The Cisco Networking Academy program, currently in 1,200 high schools across the country, teaches high-tech skills to students.

About 17,000 students are currently in the Networking Academy program and Cisco expects more than 2,000 students to graduate in 1999.

''The kind of training Sen. Conrad and his colleagues are encouraging through this legislation will allow students to learn skills needed for jobs in high-technology companies and help current employees to be retrained to meet the needs of 21st Century jobs,'' said Chambers.

GREAT PLAINS SOFTWARE,
Fargo, ND, February 23, 1999.

Re tax credit for information technology training expenses.

Senator KENT CONRAD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CONRAD: We have reviewed the legislation drafted and sponsored by yourself, along with Senators Feinstein, Boxer, Johnson, Daschle and Sarbanes which would provide tax credits to businesses that train workers in information technology skills. As the largest technology-based employer in North Dakota, we support this legislation. While benefit to our Company may be modest, smaller, start-up technology companies, especially those in rural areas of our state, should see substantial benefits.

As you know, American industry faces a severe shortage of information training (IT) professionals. Any legislation which addresses this issue is welcome.

Please feel free to note our Company's support of your legislation publicly.

Very truly yours,

DOUGLAS R. HERMAN,
General Counsel.

Mrs. FEINSTEIN. Mr. President, I rise today alongside my colleague from North Dakota in support of S. 456, the Information Technology Tax Credit bill, which provides employers with a tax credit for information technology training for their employees.

The purpose of this legislation is quite simple: To assist American companies which are having difficulty in recruiting skilled workers to fill positions in the information technology field.

Information technology—including computer programmers, systems analysts, computer scientists and engineers—is a critical ingredient in the growth of the U.S. economy as well as the economy of California. A field that barely existed a few decades ago, information technologies are now among the most important emerging technologies in the world.

Information technology now accounts for more than $500 billion a year to U.S. economy, and one-third of all new jobs created since 1992 are in computers, semiconductors, software, and communications equipment.

According to recent studies, ''e-commerce'' is projected to grow from $2.6 billion in 1996 to over $220 billion in 2001—explosive growth that will generate countless additional jobs.

And, just as important, many information technology jobs tend to be high value added, high-wage.

Last year California alone was responsible for sales of approximately $125 billion in high-tech production—almost than double 1992's $64 billion in sales.

Computer services—just one sector of the IT economy—have created 100,000 jobs in California in the past five years. There are now over 400,000 people in California employed directly in high-tech manufacturing jobs. When information technology business service jobs are added into the mix, there are currently over 700,000 information technology jobs in California, according to the Center for the Continuing Study of the California Economy.

And yet, despite this explosive growth—or perhaps because of it—America is simply not producing enough skilled and able workers to meet the needs of the information technology field.

Last year the Information Technology Association of America releases a study which estimated that there are more than 340,000 high skilled positions in the information technology field that are not filled.

And the Department of Labor has projected that our economy will require more than 130,000 information technology jobs in just three fields—computer scientists and engineers, systems analysts, and computer programmers—every year for the next decade.

One of the most sobering experiences of my Senate career occurred last year when I was told point blank by the CEO's of several large California high-tech companies that the United States is simply not producing a sufficient number of skilled and educated workers to fill the information technology positions that their companies need to fill if they were to be able to continue

to grow and successfully compete in the international economy.

To meet the needs of these companies, last year Congress had to revise the cap on H1B visas to allow foreign professional and skilled workers who had the education and skills to fill these information technology positions to come to the United States.

While raising the H1B visa cap may meet the short term needs of these companies and of the economy, it is not a long-term solution to this problem.

To avoid the danger of a ''hollowing out'' the U.S. workforce we must invest more in the education and training of American workers so that they have the education and skills needed for the information technology jobs which make up the backgone of the new high-tech economy.

We must make sure that new workers entering the workforce have the skills they need to match with the jobs they want to be able to get. We must focus on retraining unemployed, older, and displaced workers, and encourage new partnerships between the IT industry and educational institutions. And we must reach out to those who have been left out to make sure that they have the training they need to join in our current economic prosperity.

To meet these needs, this legislation provides a tax credit for employers who offer information technology training for individuals, equal to 20 percent of the information technology training program expense, capped to $6,000 in a calender year.

And, to help those who may have been excluded from the economy of today take their place in the economy of tomorrow, it provides a 5 percent increase in the value of the credit as an additional incentive for training in empowerment zones or enterprise communities.

The current strength of U.S. information technology industry comes, in large part, from a long and successful partnership between government, educational institutions, and industry.

This legislation builds on that partnership to both meet our current needs and to train the next generation of information technology workers, and to maintain the U.S. economy's strength and leadership in the twenty-first century.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. SCHUMER, Mr. LAUTENBERG, Mr. TORRICELLI, Mr. REED, Mrs. BOXER, and Mr. DODD):

S. 457. A bill to amend section 922(t) of title 18, United States Code, to require the reporting of information to the chief law enforcement officer of the buyer's residence and to require a minimum 72-hour waiting period before the purchase of a handgun, and for other purposes; to the Committee on the Judiciary.

THE PERMANENT BRADY WAITING PERIOD ACT OF 1999

Mr. DURBIN. Mr. President, I rise today with my colleagues Senators CHAFEE, SCHUMER, LAUTENBERG, TORRICELLI, REED, BOXER and DODD to introduce the ''Permanent Brady Waiting Period Act of 1999.'' It is vital that we enact this measure if we are to ensure Americans that the popular Brady Bill will continue to be one hundred percent effective.

Five years ago, Congress passed the Brady Bill. That law contained a provision that required a 5-day waiting period before a person can buy a gun. Unfortunately last November, the waiting period was eliminated when we begin using the national instant check system for gun purchasers.

I fully support the use of an instant check system to determine if a putative firearm purchaser is legally barred from owning a gun because of a criminal record. But I believe that it must be coupled with a cooling off period.

Let me briefly explain what this legislation would do. It would require that anyone who wishes a buy a handgun must wait three days. There are two exceptions to this requirement. First, if a prospective purchaser presents a written statement from his of her local chief law enforcement officer stating that the handgun is needed immediately because of a threat to that person's life or that of his family, then the cooling off period will not apply. Second, if a prospective purchaser lives in a state that has a licensing requirement—and there are 27 such states—then the federal cooling off period will not apply.

I think both of these are common sense exceptions. Obviously people who have a legitimate and immediate need of a handgun for self-defense should be able to buy one. And in the states that have licensing or permit systems, the process of getting a permit acts as a state cooling off period.

This measure also requires that when a person applies to buy a gun that the gun shop owner send a copy of the application to the local chief law enforcement officer. In addition, it alters the amount of time that the state or federal government has to investigate a potential purchaser who has an arrest record. Under the law that will go into effect on the first of December this year, if a person with an arrest record applies for a gun, law enforcement will have three days to determine if that arrest resulted in a conviction. The measure we introduce today would give law enforcement five days.

Mr. President, let me walk you through the process of buying a gun if this law were in place.

If you are in a state that does not have a permit system in place, then you go into a store and fill out a purchase form. A copy of that form will be sent to the Insta-Check point of contact for your state and a copy will also be sent to the chief law enforcement officer for where you live. You will then need to wait three days whereupon, assuming that you do not have a criminal record or any of the other disqualifying characteristics, you will be able to pick up your gun.

If on the other hand, when the Insta-Check is run, the FBI learns that you were arrested, then you will have to wait at least 5 days. That five days will be used to determine if the arrest resulted in a conviction. If it did not, then after 5 days you can get your gun. If you were arrested and convicted then you cannot get your gun and may be prosecuted.

Enacting this law is only sensible. A cooling off period may be the only barrier between a woman and her abusive husband whose local restraining order doesn't show up on a computer check or the only obstacle in the way of a troubled person planning to commit suicide and take others with them. A cooling off period will prevent crimes of passion and spontaneous suicides. The list of people who have bought guns and used them within a few hours or a day to kill themselves or others is far too long.

A recent study by the Center to Prevent Handgun Violence demonstrates a disturbing trend that reinforces the need for a cooling off period. Normally, 4 to 5 percent of all crime guns traced by the police were used in murders. But the study found that 20 percent of all guns traced within 7 days of purchase were used in murders. That is a startlingly high incidence of guns being bought and used very soon thereafter to commit a murder.

But this measure has a second, equally important justification.

That the Insta-Check system is in very good shape, but it will never be perfect. For example, it will not have a lot of mental health records. And it is unlikely to have information like restraining orders entered in domestic violence cases. Letting local law enforcement know about a potential gun purchase is a good idea—the local sheriff may know that a person trying to buy a gun has a restraining order while the FBI's Insta-check computer might not. In short, then, this bill will help serve as a fail safe mechanism for the Insta-Check system. I for one do not want to learn a year from now that someone got a gun and used it to harm someone else when a simple check of local records in addition to the Insta-Check would have revealed that the purchaser had a history of mental instability.

Making the Brady waiting period permanent is not about more government. It's about fewer gun crime victims. I hope that we can all agree on this goal. Thank you.

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

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

S. 457

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 referred to as the ''Permanent Brady Waiting Period Act of 1999''.

SEC. 2. ESTABLISHMENT OF MINIMUM 72-HOUR HANDGUN PURCHASE WAITING PERIOD.

Section 922(t) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking ''before the completion of the transfer, the licensee'' and inserting ''after the most recent proposal of the transfer by the transferee, the licensee, as expeditiously as is feasible,''; and

(ii) by inserting ''and the chief law enforcement officer of the place of residence of the transferee'' after ''Act'';

(B) in subparagraph (B)(ii)—

(i) by striking ''3'' and inserting ''5''; and

(ii) by striking ''and'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(D) if the firearm is a handgun—

''(i) not less than 72 hours have elapsed since the licensee contacted the system;

''(ii) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of a member of the household of the transferee; or

''(iii) the law of the State in which the proposed transfer will occur requires, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, that an authorized State or local official verify that the information available to the official does not indicate that possession of a handgun by the transferee would be in violation of the law, and the authorized State or local official has provided such verification in accordance with that law.''; and

(2) by adding at the end the following:

''(7) In this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer of a law enforcement agency, or the designee of any such officer.

''(8) A chief law enforcement officer who is contacted under paragraph (1)(A) with respect to the proposed transfer of a firearm shall, not later than 20 business days after the date on which the contact occurs, destroy any statement or other record containing information derived from the contact, unless the chief law enforcement officer determines that the transfer would violate Federal, State, or local law.

''(9) The Secretary of the Treasury shall promulgate regulations regarding the manner in which information shall be transmitted by licensees to the national instant criminal background check system under paragraph (1)(A).''.

Mr. CHAFEE. Mr. President, today, Senator DURBIN and I are introducing ''Permanent Brady,'' which would establish a mandatory 3 day cooling off period before the purchase of a handgun.

I am under no illusion that Permanent Brady will cure the problem of handgun violence. But I do believe a waiting period helps. Prior to enactment of the Brady law, in some States, an individual could walk into a gun store and walk out with a handgun a few minutes later. Sure, the individual had to fill out a form certifying that he or she had not been convicted of a felony and is not mentally incompetent. But that form was meaningless until the police had a chance to check to see if the information provided was accurate. Now, the FBI has instituted an insta-check system, which is working well. But a permanent three-day waiting period gives local police the chance to conduct a check that could turn up information not known to the FBI. For example, local police could be aware of a restraining order against an individual for domestic violence, or could be aware of a potential gun purchaser's mental instability.

A waiting period also can help prevent people temporarily under the influence of powerful emotions, drugs, or alcohol from obtaining a handgun on impulse, thereby giving them a time to ''cool off'' and reconsider before they do something rash.

Last November the five-day waiting period established by the Brady Law was phased out and replaced with the NICS—National Instant Check System. Establishment of a nationwide instant background check is a good step, but I do not believe that an instant check renders a waiting period unnecessary. The bill we are introducing today would restore the waiting period.

By Mr. HAGEL (for himself, Mr. BAYH, Mr. LOTT, Mr. BENNETT, Mr. GRAMS, Mr. KERREY, Mr. JOHNSON, Mr. DEWINE, Mr. CONRAD, Mr. INHOFE, Mr. MURKOWSKI, Mr. BROWNBACK, Mr. BRYAN, Mr. ROBERTS, and Mr. BURNS):

S. 458. A bill to modernize and improve the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION ACT OF 1999

Mr. HAGEL. Mr. President, I rise today to introduce the Federal Home Loan Bank System Modernization Act of 1999. I am joined in this effort by my distinguished colleagues Senators BAYH, LOTT, BENNETT, GRAMS, KERREY, JOHNSON, DEWINE, CONRAD, INHOFE, MURKOWSKI, BROWNBACK, BRYAN, ROBERTS, and BURNS. While we've made a few improvements, this is essentially the same legislation I introduced during the 105th Congress.

The bill has the formal support of the American Bankers Association, the Independent Bankers Association of America, America's Community Bankers, the Council of Federal Home Loan Banks, and the National Association of Home Builders. Equally important, we have the support of the regulator, the Federal Housing Finance Board.

The bill's main objective is to strengthen local community banks that are vital to the economic growth and viability of our communities. The Federal Home Loan Bank System Modernization Act of 1999 would ensure that, in an era of banking megamergers, smaller banks are able to compete effectively and continue to serve their customers' lending needs.

Community banks are finding that, for a variety of reasons, their funding sources are shrinking. This makes it more difficult to fund the loan demands in their communities. During the 1980s in my state of Nebraska—as in much of America—many community banks and thrifts closed. As local credit dried up, local economies stagnated. Small businesses, our greatest engines for job growth, were the first to feel the crunch.

The Federal Home Loan Bank System Modernization Act of 1999 strengthens community banks in order to avoid a repeat of the 1980s. By ensuring the viability of the community bank and thrift, our bill will keep credit flowing to small businesses, farmers, and potential homeowners—and help our local communities to thrive as we enter the 21st Century.

There is plenty of evidence that small banks are facing growing deposit pressures. This problem has two causes: First, banks and thrifts are competing for deposits with brokerage firms and mutual funds—and local institutions are losing. That means that deposits that used to go to local institutions and were used for local lending are now going to major financial institutions outside the community.

Second, we have an aging population in many rural communities. When a farmer dies, his inheritance goes to his children—who often have left the community. That means money flows out of the community—out of local financial institutions—and is no longer available for local economic development.

These two factors mean less deposits in local banks. That means less local capital available for local loans. Less economic development. Less opportunity. And this problem won't fix itself—most of these local institutions are too small to go to the capital markets on their own.

This is where the Federal Home Loan Banks can make a real difference. The Home Loan Banks can be a critical source of liquidity for community banks and thrifts. I tend to focus on rural America because that is where I come from—but liquidity problems can be equally serious in urban areas. The Federal Home Loan Banks are an important tool for providing credit to consumers no matter where they live.

A related problem our bill addresses is government subsidized competition with the private sector. Commercial banks compete with credit unions that pay no taxes and, therefore, have a lower cost of funding. The same can be said of the Farm Credit System. Its connection to the federal government gives it a funding advantage over commercial banks. The purpose of this legislation is not to drive the Farm Credit Banks or credit unions out of business—they play a vital role in our country. The purpose is to allow the

Federal Home Loan Banks to help level the playing field for commercial banks and thrifts that must compete with these entities.

I want to provide you with a real world example: the case of Commercial State Bank in Wausa, Nebraska. Commercial has served northeast Nebraska as an agricultural and business lender for more than 70 years.

Now, with a growing economy in the region, the bank is growing as well. In the small community of 600 people, deposits can't keep pace with the growing demand for loans—and that means the bank's liquidity is declining. With less liquidity, there just isn't as much money available for lending as the community demands.

This bill would help banks like Commercial and communities like Wausa. As Doug Johnson, president of Commercial State Bank, wrote to me about this legislation:

> If banks like Commercial State Bank were able to access the Federal Home Loan Bank, our customers would be better able to be serviced with a consistent and competitive source of funding. Denying credit to qualified borrowers is not productive for Nebraska or the Midwest. Unfortunately, those borrowers may miss the opportunities available to them at this time to improve their economic prosperity.

Mr. President, that's what this bill is all about—helping communities to better secure their economic futures.

The Federal Home Loan Bank system was established in 1932, primarily to provide a source of credit to savings and loan institutions for home lending. Now, a majority of the members in the FHLB system are commercial banks. We should update this system to recognize this change in its membership.

Not since 1989 has significant Federal Home Loan Bank legislation become law. The system is working well, but I believe Congress can make it better. It's time for Congress to act.

This legislation has five main components:

First, our legislation would ease membership requirements for smaller community banks and thrifts that are vital sources of credit in their local communities. It would allow the FHLB System to be more easily accessed as an important source of liquidity for community lenders. These institutions would be permitted to post different types of collateral for various kinds of lending. This critical change will facilitate more small business, rural development, agricultural, and low-income community development lending in rural and urban communities.

The second main component of this bill is an issue of basic fairness. Federally chartered savings associations, or thrifts as they are called today, are required to be members of the Federal Home Loan Bank system. Commercial banks, on the other hand, are voluntary members. This disparity is unfair.

Our legislation allows federally chartered thrifts to become voluntary members. This is important to these institutions, which are large stockholders in the Federal Home Loan Bank System. It is critical that all member financial institutions have the ability to choose whether Federal Home Loan Bank membership is appropriate or not. As a result of this action, we also equalize stock purchase requirements for all member institutions. We do this in a way that maintains and enhances the safety and soundness of the FHLB system.

The third component of this legislation fixes an imbalance in the system's annual REFCORP obligation. Currently, the 12 FHLBanks must collectively pay a fixed $300 million obligation to service the REFCORP bonds that were issued to help pay for the S&L bailout. This fixed obligation has driven the banks to increase their levels of non-mission-related investments.

Under our legislation each FHLBank would be required to pay 20.75 percent of its earnings to service the REFCORP debt. Freeing the FHLBanks of the obligation to generate a specific dollar figure would allow them to concentrate on their primary mission of housing finance and community lending. The Congressional Budget Office has indicated this change could bring in an additional $795 million over ten years to the U.S. Treasury. In other words, we have protected the taxpayer from picking up any additional cost of the S&L bailout.

Fourth, the legislation addresses the issue of devolution of management functions from the Finance Board to the FHLBanks. On issues of day-to-day management, the FHLBanks should be able to govern themselves independently of their regulator. The function of the Finance Board should be mission regulation and safety-and-soundness regulation. The provisions of the legislation that accomplish this goal are non-controversial and enjoy broad support. In fact, they follow the recommendations of a recent General Accounting Office study.

Finally, this legislation reforms the capital structure of the Federal Home Loan Bank system. Current law (established in 1932) dictates that the level of FHLBank capital is determined by the size and mix of a FHLBank's member assets, not by any rational capital standards. The result is the FHLBanks' capital levels don't reflect the risk profile of their lending activities. Furthermore, the FHLBanks' capital lacks permanence because it is withdrawable by members upon termination of their membership.

Our bill changes the existing capital rules to include a risk-based capital requirement and a permanent capital requirement which ensures the FHLBanks maintain capital levels appropriate to the risk of their business activities. The new plan also encourages the FHLBanks to build up their retained earnings which act as an additional buffer and protection to the U.S. taxpayer.

Mr. President, it's time to modernize the Federal Home Loan Bank System. The landscape of the financial services industry is rapidly evolving. The Federal Home Loan Banks should be allowed to modernize to keep pace with these changes. I am grateful to Senator BAYH, the principal cosponsor of the legislation, for his help in this endeavor. I am also grateful to the other cosponsors who have lent their names to this effort. Today, Congressmen BAKER and KANJORSKI are introducing the companion bill in the House of Representatives. Both are tireless proponents for Federal Home Loan Bank modernization and their help in the formulation of this legislation was critical.

I sincerely hope the Senate Banking Committee and the full Senate will have the chance to consider this important legislation, and I encourage my colleagues to support it.●

● Mr. BAYH. Mr. President, I rise this afternoon to join with my colleague Senator HAGEL to introduce the Federal Home Loan Bank System Modernization Act of 1999. We are joined in this endeavor by Senators LOTT, KERREY, BENNETT, BRYAN, JOHNSON, GRAMS, CONRAD, BURNS, BROWNBACK, DEWINE, MURKOWSKI, ROBERTS, and INHOFE.

Let me begin by expressing my thanks and appreciation to Senator HAGEL for spearheading this reform effort over the past two years. The Home Loan Bank System is not something that is on the lips of every Senator or every constituent and I commend him for mastering this difficult subject and for devising some changes that will allow this somewhat-obscure system to have a tangible positive impact upon the lives of people who might not even be aware that the system exists.

Mr. President, the core element of our legislative proposal today would be to allow community banks—defined as those institutions with assets of less than $500 million—to access the low cost capital of the Home Loan Bank System in order to make loans to small businesses, farmers and other types of loans that benefit their community.

These small banks generally serve rural communities and small cities. The plain fact is that while, overall, the national economy is robust, there is still demand for credit and capital in rural communities that cannot be met by the existing financial structure. These communities, unfortunately, do not always attract the attention of the large banks and securities firms that have come to dominate the financial landscape. And since the community banks that serve these communities are constrained in the amount of lending they can do by the amount of deposits that they can raise from a limited geographic area, fueling economic growth requires us to develop additional sources of private sector funding.

By opening up the Home Loan Bank System to these small, community banks, this legislation will, hopefully, not only allow the banks to meet the

loan demand of their town or small city, but will also have the added effect of keeping interest rates down—or even lowering those rates—for these kind of loans.

Let me also emphasize, Mr. President, that these benefits will accrue to these communities without a single dime of taxpayer money. Making these changes to the Home Loan Bank System frees up access to capital using existing private sector mechanisms.

Mr. President, let me briefly outline why it is necessary for Congress to modernize the Federal Home Loan Bank System, and why opening up the system to these small banks is consistent with the mission that Congress endowed the system with in 1932.

The Federal Home Loan Bank System was created in 1932 to serve as a public/private mechanism that would both regulate the thrift (S&L) industry and would help the industry obtain low-cost capital for the purpose of making home mortgages (at the time, the primary mission of Savings & Loans). Borrowing by the individual home loan banks is backed by the full faith and credit of the US Government, thus allowing them to borrow at the lowest possible rates. In turn, the bank makes that money available to its members in the form of ''advances.''

In 1989, as part of the clean-up of the S&L crisis, the Home Loan Bank System was dramatically changed. It was stripped of its regulatory authority (which was transferred to the newly created Office of Thrift Supervision) and of its authority to administer the deposit insurance fund (called FSLIC at the time and which was transferred to the FDIC which now administers the SAIF). The banks retained authority to provide low-cost capital to the thrift industry, though membership was also opened up to commercial banks. A Federal Housing Finance Board was created specifically to make sure that the activities of the 12 banks—which were still controlled by their members—conformed to safety and soundness regulations.

The Banks were also required to buy REFCORP bonds. As a result, the banks must pay a total of $300 million each year out of their earnings. The banks must also pay $100 million each year as part of the Affordable Housing Program. The REFCORP formula required a payment of a certain percentage of each banks annual earnings; if that failed to meet the annual $300 million payment, a further allocation system went into place with the heaviest burden placed on those banks with the greatest number of S&L failures.

This legislation keeps in place all of the safety and soundness regulations put into place by FIRREA and FDICIA. But it would reform some of the basic management of the individual banks so that basic administrative decisions are placed in the hands of the men and women running the bank, rather than emanating from the Finance Board here in Washington. The bill also seeks to rationalize the capital structure of the individual banks so that the need to engage in non-advance investments is reduced and so that banks' capital reserves are secured by permanent—rather than tradeable—stock.

With the rise of the secondary mortgage market—primarily driven by Fannie Mae and Freddie Mac—and the entry of other entities like mortgage brokers into the mortgage market, many people have been looking for ways to allow the banks to play a more relevant role in today's society. Expanding the Home Loan Banks ability to provide low-cost capital to the smallest banks in principally rural areas is both a benefit to the banks and to communities that are still experiencing a credit crunch.

In 1932, Congress correctly surmised that creating funding for housing was the cornerstone of rebuilding towns, villages and cities gripped in the vise of the Great Depression. Today, with the housing market flush with capital, it is appropriate for Congress to use this longstanding tool of community development—the Federal Home Loan Bank System—to address the pressing and serious capital needs of rural America.

I urge my colleagues to join with Senator HAGEL and myself to work towards enactment of this important legislation.●

By Mr. BREAUX (for himself and Mr. HATCH):

S. 459. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds; to the Committee on Finance.

THE STATE AND LOCAL INVESTMENT OPPORTUNITY ACT OF 1999

● Mr. BREAUX. Mr. President, I am pleased to introduce today with my colleague, Senator HATCH, an important bill that will assist states and localities in working with private industry to foster economic development and provide home ownership opportunities to low-income Americans. Specifically, our bill will increase the private activity tax-exempt bond cap to $75 per capita or $250 million, if greater, and index the cap to inflation.

Congress created the private activity tax-exempt bond decades ago to apply to mortgage revenue bonds and other bonds for multifamily housing, redevelopment of blighted areas, student loans, manufacturing, and hazardous waste disposal facilities. However, Congress unintentionally restricted the growth of this program by imposing a cap on the bond volume of $50 per capita or $150 million that was not indexed to inflation. The resulting erosion in purchasing power has crippled the ability of states to meet the growing demand for these bonds.

Congress took an important step to correct this problem in the Fiscal Year 1999 Omnibus Appropriations bill by approving a partial, phased-in increase in each state's bond cap. The bond cap will be increased by $5 per capita beginning in 2003. The volume limit will reach $70 per capita, or $210 million if greater, in 2006. Unfortunately, inflation will have reduced the purchasing power of these bonds by nearly thirty-three percent by the time the volume cap increase is fully phased in.

Tax-exempt bonds are issued by state and local governments to provide below market interest rates to fund authorized programs and projects. Revenue bond investors accept lower interest from these bonds because the interest income is tax-exempt. For example, mortgage revenue bonds are issued to help lower income working families buy their first homes. These low interest loans significantly lower the cost of owning a home.

In my own state, the Louisiana Housing Finance Agency has issued over $1.1 billion in mortgage revenue bonds for almost 16,000 affordable home mortgages since the program began. In 1996 alone, the agency issued over $112 million in mortgage revenue bonds for nearly 1,200 home loans. That's 1,200 Louisiana families who now know the pride of owning their own home—Louisiana families that earned, on average, less than $28,000 last year. The Louisiana Housing Finance Agency estimates that it could have put another $50 million in bond authority to good use. Nationwide, states could have used an additional $7 billion in bond cap for mortgage revenue bonds, student loan bonds, industrial revenue bonds, pollution control bonds and other worthy investments.

Student loan bonds are also issued to raise a pool of money at tax-exempt interest rates resulting in lower interest rate college loans. In my state, the Louisiana Public Facilities Authority has issued $745 million in student loan bonds since 1984. These bonds have funded over 80,000 college loans for deserving Louisiana students—students who otherwise might not have been able to afford to attend college.

In Louisiana, the roughly $40 million of remaining 1997 volume cap will not come close to fulfilling the $330 million of demand for these bonds. The total 1997 volume cap for Louisiana was $217,500,000. After funding minimal housing and student loan needs, little volume cap remains available for industrial development bonds for manufacturing purposes. Many of the industrial and manufacturing facilities create substantial employment opportunities. Unfortunately, a deficiency in volume cap limits these opportunities.

Our bill will correct this woeful situation and improve the ability of states and localities to provide home ownership opportunities to low-income families throughout the United States, to help fund student loans for college students and to help finance industrial and manufacturing facilities. These facilities will, in turn, increase employment and the tax base of local governments. I urge my colleagues to join me and Senator HATCH in this effort.●

Mr. HATCH. Mr. President, I am pleased to introduce with my good friend Senator BREAUX the ''State and Local Investment Opportunity Act of 1999.'' This legislation would first, raise the annual limit on States' authority to issue their own tax-exempt ''Private Activity'' Bonds to the greater of $75 times population or $225 million and, second, index the limit to inflation.

Tax-exempt Private Activity Bonds finance much needed municipal services, student loans, affordable housing, and economic development.

In my home State, the Utah Housing Finance Agency has financed first-time homes for nearly 41,000 working families with Mortgage Revenue Bonds. In addition, multifamily housing bonds have financed almost 3,300 affordable apartments. Both of these bonds are subject to the cap.

However, many more Utah families still need the housing help that these bonds provide. According to the National Council of State Housing Agencies, demand in Utah for these bonds and other Private Activity Bonds more than doubled supply. Nationwide, demand for bond authority exceeded supply by almost 50 percent in 1997.

The current bond limit is the greater of $50 times population or $150 million. Cap growth is restricted by State population growth, which has been less than 5 percent nationwide over the past decade. During the same period, inflation has sliced bond purchasing power nearly in half, as measured by the Consumer Price Index.

Last year's Omnibus Appropriations Act included a partial, phased-in bond restoration among its limited tax provisions. However, the increase will not become effective until 2007. By then, nearly one-third of the purchasing power of Private Activity Bonds will have been lost even with the phase-in.

Bond restoration has strong bipartisan support. A majority of the Senate, and nearly three quarters of the House, cosponsored full restoration and indexation in the 105th Congress. Furthermore, three-quarters of the House, including nearly three-quarters of the Ways and Means Committee, cosponsored identical House legislation.

The Nation's governors and mayors, along with other State and local groups, and the public finance community strongly support full bond cap restoration.

I encourage my colleagues to cosponsor the ''State and Local Investment Opportunity Act of 1999,'' so that their States can continue to make vital investments in their citizens and communities.

S. 460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ROBERT K. RODIBAUGH UNITED STATES BANKRUPTCY COURTHOUSE.

The United States courthouse located at 401 South Michigan Street in South Bend, Indiana, shall be known and designated as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Robert K. Rodibaugh United States Bankruptcy Courthouse''.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. MCCONNELL):

S. 461. A bill to assure that innocent users and businesses gain access to solutions to the year 2000 problem-related failures through fostering an incentive to settle year 2000 lawsuits that may disrupt significant sectors of the American economy; to the Committee on the Judiciary.

YEAR 2000 FAIRNESS AND RESPONSIBILITY ACT

Mr. HATCH. Mr. President, I am pleased to introduce the ''Year 2000 Fairness and Responsibility Act.'' This bill addresses what is popularly known as the ''Y2K Problem'' or the ''Millennium Bug.'' It is supported by over 85 industry organizations and is important to the state of Utah, our nation's fastest growing high-tech state.

Due to a simple decision years ago to save space on computer punch cards, many computers and electronic devices around the world still express years in only two digits. As a result, these computers will be incapable of making a smooth transition to the next millennium. Technicians and economists have predicted that this problem, if not corrected in time, could result in either a recession or at least serious economic dislocation.

Over the last several years, the U.S. government and the private sector have made great strides in aggressively targeting the technology side of the Y2K problem. Although there remains much to do, many critical areas have already been addressed.

Last year, a unanimous Congress passed a bipartisan Senate Judiciary Committee-reported bill that unleashed the genius of the American private sector by fostering the sharing of remedial information on the Y2K problem. Prior to the bill's passage, various businesses were fearful of being sued if they shared corrective and other information concerning the Y2K problem. In essence, the bill insulates statements about Y2K information and solutions from being used as admissions in a court of law. This legislation has spurred solutions to the Y2K problem by increasing the amount of information available to address the Y2K challenge.

But while this first step was important, additional reforms are needed to aid innocent users and manufacturers and to nurture an environment where solutions to the Y2K problem will be forged. Last year's advances are threatened by frivolous Y2K lawsuits—which will disrupt and perhaps even cripple our courts, our high-tech industry, and thousands of businesses, large and small, around our nation. Indeed, one respected analyst recently estimated that the world-wide cost of Y2K-related litigation would be a staggering one trillion dollars.

The anticipated flood of lawsuits from those affected by the Y2K crisis may very well impede the progress we have been making in solving the problem. Companies of every variety will be forced to devote precious resources to litigation rather than to repairing and preventing computer problems, and many of these companies may even go bankrupt as a result. Our courts could very well be deluged with lawsuits, clogging the arteries of justice. These consequences must be addressed.

The legislation introduced today will ameliorate the Y2K dilemma in a fair and reasonable manner. One of the main features of this new Y2K bill is that it provides for a problem-solving, cooling off period before Y2K-related litigation may commence. The problem-solving period is designed to allow prospective plaintiffs an opportunity to describe the nature of the problem of which they seek legal remedy and give the prospective defendants an opportunity to respond and, if necessary, correct any material Y2K defect.

The parties may be able to resolve their disputes during the mediation period, thus forestalling the need for costly and time-consuming litigation. Correspondingly, the bill establishes an alternative dispute resolution mechanism to resolve private disputes and avoid litigation.

Of particular significance is the bill's limitations on damages. The bill limits punitive damages in Y2K-related suits to three times economic damages or $250,000, whichever is greater, or, if a small business is a defendant, whichever is lesser. This and other provisions will prevent frivolous lawsuits while preserving the ability of the truly injured to recover damages and to deter future abuses.

The bill also remediates potential problems arising out of Y2K-related class suits. Class action cases are currently a source of abuse, and this bill seeks to limit such abuses by allowing class actions to proceed only if a majority of class members' claims involve material defects relating to Y2K problems. Thus, as a practical matter, specious class action suits are barred.

The purpose of our bill is clear—to promote and increase the chances that innocent users and businesses gain access to solutions to the Y2K problem. And while the purpose is clear, we recognize that the solution is not simple, We have worked to produce a fair, reasoned bill that preserves the rights of all parties to settle disputes, but will help avert the potential disasters awaiting us if we choose not to act.

This bill reflects the high levels of cooperation and broad consensus that large manufactures, small businesses, the telecommunications industry, the information technology industry, electric utilities, and professional associations have been able to achieve. They

are all to be commended for their efforts in supporting this vitally important legislation.

Let me explain the bill in more detail.

I. PURPOSE OF THE BILL

The bill's main purpose is to promote Y2K readiness and problem-solving by discouraging a wasteful diversion of resources that would otherwise support readiness and problem-solving toward Y2K-related litigation. Such a costly diversion of resources could exacerbate the risk of nationwide economic dislocation that the Y2K problem poses. Accordingly, the bill aims to prohibit Y2K-related litigation but to impose a slight delay in its commencement so as to promote resolution of Y2K problems and disputes without resort to litigation. I believe this will benefit plaintiffs, defendants, consumers, businesses, and innocent users. We want to create an environment when people think, ''Let's try to solve it'' before they say, ''Let's sue them.''

II. SUMMARY OF THE BILL'S PROVISIONS

Pre-litigation Remediation Period (§ 101):

If a person aggrieved by a year-2000-related (Y2K-related) problem wants to file a lawsuit based on that problem, he must first provide the prospective defendant, at least 90 days before filing suit, with notice regarding how the Y2K defect manifests itself, what injury he suffered or risk he bore as a result, and what relief he seeks. The only exception to this mandatory 90-day remediation period is if the prospective plaintiff is party to a contract that provides for a period of delay before suit for breach of contract may commence. In that case, the contract's waiting period prevails over the bill's.

If the prospective plaintiff fails to give notice to the prospective defendant, as outlined above, and sues anyway, the defendant can treat the plaintiff's lawsuit itself as a substitute notice, thus triggering the 90-day remediation period. If the 90-day remediation period is triggered by an actual lawsuit (instead of the notice) all discovery will be stayed and pleading deadlines will be tolled for the duration of the period.

The bill imposes responsibilities on prospective defendants as well as plaintiffs. If a defendant has been given notice, as outlined above, he must respond to this notice within 30 days of receiving it. In this response, the prospective defendant must state in writing his acknowledgement of receipt of the notice and what actions he will take or has taken to address the Y2K problem identified in the plaintiff's notice. Even if the plaintiff has not given notice and the defendant treats his actual lawsuit as substitute notice, the defendant must still respond to that notice within 30 days with all required particulars.

If the defendant fails to respond to the plaintiff's notice, then the remediation period terminates at the expiration of the defendant's 30-day response deadline; the lawsuit can then proceed.

Also of particular significance, the 90-day remediation period may be extended as part of mutual agreement of the parties to engage in alternative dispute resolution. See § 102(a).

Pleading Requirements (§ 103):

The bill requires all Y2K plaintiffs seeking money damages to make a detailed statement in their lawsuits of the nature and amount of the damages they seek to recover, specific facts that form the basis for calculating those damages, and how material Y2K defects manifest themselves. In addition, if the claim being pursued requires proof that the defendant acted with a particular state of mind, the plaintiff must ''state in detail the facts giving rise to a strong inference that the defendant acted with the required state of mind.''

The bill allows the court to dismiss a Y2K lawsuit that fails to meet the above pleading requirements. However, the plaintiff can re-file his lawsuit with the required detailed statements and still get a chance to pursue his claim.

Duty to Mitigate (§ 104):

This provision codifies the common-law rule that bars recovery of damages for injuries that the plaintiff could reasonably have been avoided.

Evidence of Reasonable Efforts and Contract Defenses (§ 202(a)):

This provision allows a defendant, ''for the purpose of limiting or eliminating the defendant's liability,'' for breach of contract to offer evidence that his performance was ''reasonable in light of the circumstances.'' This would overcome any objection, based on Federal or State rules of evidence, that evidence of such reasonable-efforts performance is irrelevant to the issue of breach. Also, this provision expressly preserves the common-law and Uniform Commercial Code defenses of impossibility and impracticability.

Contract Damages Limit (§ 203):

Contract damages are limited either to those provided for in a liquidated damages clause or by operation of law that governed the contract's interpretation at the time of contract formation. This does not alter present-day contract law. Rather, it is designed to preempt any State's attempt to change its contract law relating to Y2K problems after the contract that is the subject of the lawsuit was entered into.

Proportionate Liability in Tort Cases (§ 301(b)):

This provision essentially codifies the tort doctrine of pure comparative negligence in that it requires the court to assign a percent share of liability to each person determined to have caused or contributed to the plaintiff's loss in proportion to the relative fault of each. Personal injury cases are exempt from this provision.

State of Mind and Foreseeability Requirements in Tort Cases (§ 302):

This provision establishes a heightened state-of-mind element for three types of lawsuits: For fraud and negligent misrepresentation cases, the plaintiff must, in addition to proving all other elements of the claim, prove by clear and convincing evidence that the defendant ''actually knew, or recklessly disregarded a known and substantial risk, that [a Y2K] failure would occur.'' For cases that require proof of gross negligence or recklessness, the plaintiff must, in addition to proving all other elements of the claim, prove by clear and convincing evidence that the defendant ''actually knew, or recklessly disregarded a known and substantial risk, that plaintiff would suffer [actual or potential] harm. For ordinary negligence cases, the plaintiff must, in addition to proving all other elements of the claim, prove by clear and convincing evidence that the defendant ''knew or reasonably should have known that its actions would cause harm to the plaintiff.''

Reasonable Efforts Defense in Tort Cases (§ 303):

Under this provision, a plaintiff may not recover simply by showing that a Y2K failure occurred in something that was under the control of the defendant. This is intended to avoid a defendant being held strictly liable for harm caused by a Y2K failure. Also, the bill provides the defendant with a complete defense to liability if he can show that he took reasonable efforts under the circumstances to prevent the Y2K failure or its attendant damages. Breach of contract cases are exempt from this provision.

Tort Punitive Damages Limit (§ 304):

This provision limits punitive damages to either: (1) lesser of three times actual damages or $250,000 for individuals whose net worth is $500,000 or less and for small businesses; or (2) the greater of three times actual damages or $250,000 for all other defendants.

Limit on Economic Loss Recovery in Tort Cases (§ 305):

This provision essentially codifies the common-law economic loss doctrine found in section 766C of the Restatement of Torts. Accordingly, the provision allows recovery of economic losses only when permitted by statute or judicial decision and (1) where permitted under a contract to which the plaintiff is a party; (2) where permitted under applicable law that governed interpretation of the contract at the time of contract formation; (3) when they are incidental to a Y2K-related personal injury claim; or (4) when they are incidental to a Y2K-related property damage claim.

Liability of Officers and Directors (§ 306):

This provision limits the personal liability of corporate officers and directors to the greater of $100,000 or the amount of cash compensation such officer or director received in the year preceding the act or omission for which he was found liable. This limitation on personal liability does not apply where it is proven by clear and convincing evidence that the officer or director specifically intended to harm the plaintiff by (1) intentionally making materially misleading statements on

which the plaintiff relied or (2) intentionally withholding material information regarding a Y2K failure that he had a duty to disclose. This provision expressly does not pre-empt State law on liability of officers and directors.

Class Action Requirements:

Regarding Y2K-related class suits, the bill allows these actions to proceed only if a majority of class members' claims involve material Y2K defects. Also, only those individuals who have actual notice, as certified by the court, of the suit are entitled to join the class, unless they inform the court in writing prior to commencement of trial or entry of judgment of their desire to join the class.

Finally, the bill changes the requirements of Federal jurisdiction for Y2K-related actions in three respects: (1) there is no amount in controversy requirement for Federal diversity jurisdiction; (2) diversity of citizenship can be established as to any member of the class, not just the named members; and (3) plaintiffs as well as defendants can remove Y2K-related actions from state court to Federal court.

In conclusion, Mr. President, I want to emphasize that the Y2K problem is not a partisan issue. This is a bipartisan, fair bill. We must all work together—now—to ensure that a rush to the courts does not cripple the ability of American businesses to solve the Y2K problem swiftly, efficiently and without unnecessary distractions. The real beneficiaries of this bill will be individual consumers and businesses, the engine of the American economy. I ask my colleagues to support this worthwhile legislation.

I ask unanimous consent that the bill in its entirety be printed in the RECORD.

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

S. 461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Year 2000 Fairness and Responsibility Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings, purposes, and scope.
Sec. 3. Definitions.

TITLE I—PRELITIGATION PROCEDURES FOR YEAR 2000 CIVIL ACTIONS

Sec. 101. Pre-trial notice.
Sec. 102. Alternative dispute resolution.
Sec. 103. Pleading requirements.
Sec. 104. Duty to mitigate.

TITLE II—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

Sec. 201. Contract preservation.
Sec. 202. Evidence of reasonable efforts and defenses.
Sec. 203. Damages limitation.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NON-CONTRACTUAL CLAIMS

Sec. 301. Proportionate liability.
Sec. 302. State of mind and foreseeability.
Sec. 303. Reasonable efforts defense.
Sec. 304. Damages limitation.
Sec. 305. Economic losses.
Sec. 306. Liability of officers and directors.

TITLE IV—CLASS ACTIONS INVOLVING YEAR 2000 CLAIMS

Sec. 401. Minimum injury requirement.
Sec. 402. Notification.
Sec. 403. Dismissal prior to certification.
Sec. 404. Federal jurisdiction in class actions involving year 2000 claims.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

SEC. 2. FINDINGS, PURPOSES, AND SCOPE.

(a) FINDINGS.—Congress finds the following:

(1)(A) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

(B) If not corrected, the problem described in subparagraph (A) and resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

(2) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date-change problems, so as to minimize possible disruptions associated with computer failures.

(3)(A) Because year 2000 computer date-change problems may affect virtually all businesses and other users of technology products to some degree, there is a substantial likelihood that actual or potential year 2000 failures will prompt a significant volume of litigation, much of it insubstantial.

(B) The litigation described in subparagraph (A) would have a range of undesirable effects including the following:

(i) It would threaten to waste technical and financial resources that are better devoted to curing year 2000 computer date-change problems and ensuring that systems remain or become operational.

(ii) It could threaten the network of valued and trusted business and customer relationships that are important to the effective functioning of the national economy.

(iii) It would strain the Nation's legal system, causing particular problems for the small businesses and individuals who already find that system inaccessible because of its complexity and expense.

(iv) The delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation of business disputes could exacerbate the difficulties associated with the date change and work against the successful resolution of those difficulties.

(v) Concern about the potential for liability—in particular, concern about the substantial litigation expense associated with defending against even the most insubstantial lawsuits—is prompting many persons and businesses with technical expertise to avoid projects aimed at curing year 2000 computer date-change problems.

(b) PURPOSES.—Based upon the power contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to establish uniform legal standards that give all businesses and users of technology products reasonable incentives to solve year 2000 computer date-change problems before they develop;

(2) to encourage the resolution of year 2000 computer date-change disputes involving economic damages without recourse to unnecessary, time consuming, and wasteful litigation; and

(3) to lessen burdens on interstate commerce by discouraging insubstantial lawsuits, while also preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

(c) SCOPE.—Nothing in this Act affects claims for personal injury.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACTUAL DAMAGES.—The term ''actual damages''—

(A) means damages for physical injury to any person or property; and

(B) includes the cost of repairing or replacing a product that has a material defect.

(2) CONTRACT.—The term ''contract'' means a contract, tariff, license, or warranty.

(3) DEFENDANT.—The term ''defendant'' means any person against whom a year 2000 claim is asserted.

(4) ECONOMIC LOSS.—The term ''economic loss''—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes damages for—

(i) lost profits or sales;

(ii) business interruption;

(iii) losses indirectly suffered as a result of the defendant's wrongful act or omission;

(iv) losses that arise because of the claims of third parties;

(v) losses that are required to be pleaded as special damages; or

(vi) items defined as consequential damages in the Uniform Commercial Code or an analogous State commercial law.

(5) MATERIAL DEFECT.—

(A) IN GENERAL.—The term ''material defect'' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended.

(B) EXCLUSIONS.—The term does not include any defect that—

(i) has an insignificant or de minimis effect on the operation or functioning of an item;

(ii) affects only a component of an item that, as a whole, substantially operates or functions as designed; or

(iii) has an insignificant or de minimis effect on the efficacy of the service provided.

(6) PERSON.—The term ''person'' means any natural person and any entity, organization, or enterprise, including any corporation, company (including any joint stock company), association, partnership, trust, or governmental entity.

(7) PERSONAL INJURY.—

(A) IN GENERAL.—The term ''personal injury'' means any physical injury to a natural person, including death of the person.

(B) EXCLUSIONS.—The term does not include mental suffering, emotional distress, or like elements of injury that do not constitute physical harm to a natural person.

(8) PLAINTIFF.—The term ''plaintiff'' means any person who asserts a year 2000 claim.

(9) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages, other than compensatory damages, that, in whole or in part, are awarded against any person—

(A) to punish that person; or

(B) to deter that person, or other persons, from engaging in similar behavior.

(10) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(11) YEAR 2000 CIVIL ACTION.—The term ''year 2000 civil action'' means any civil action of any kind brought in any court under Federal, State, or foreign law, in which—

(A) a year 2000 claim is asserted; or

(B) any claim or defense is related, directly or indirectly, to an actual or potential year 2000 failure.

(12) YEAR 2000 CLAIM.—The term ''year 2000 claim'' means any claim or cause of action of any kind, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, in which the plaintiff's alleged loss or harm resulted, directly or indirectly, from an actual or potential year 2000 failure.

(13) YEAR 2000 FAILURE.—The term ''year 2000 failure'' means any failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving date-related data, including—

(A) the failure to accurately administer or account for transitions or comparisons from, into, and between the 20th and 21st centuries, and between 1999 and 2000; or

(B) the failure to recognize or accurately process any specific date, and the failure accurately to account for the status of the year 2000 as a leap year.

TITLE I—PRELITIGATION PROCEDURES FOR YEAR 2000 CIVIL ACTIONS

SEC. 101. PRE-TRIAL NOTICE.

(a) NOTIFICATION PERIOD.—

(1) IN GENERAL.—Before filing a year 2000 claim, except an action for a claim that seeks only injunctive relief, a prospective plaintiff shall be required to provide to each prospective defendant a written notice that identifies and describes with particularity—

(A) any manifestation of a material defect alleged to have caused injury;

(B) the injury allegedly suffered or reasonably risked by the prospective plaintiff; and

(C) the relief or action sought by the prospective plaintiff.

(2) COMMENCEMENT OF ACTION.—Except as provided in subsections (c) and (e), a prospective plaintiff shall not file a year 2000 claim in Federal or State court until the expiration of the 90-day period beginning on the date on which the prospective plaintiff provides notice under paragraph (1).

(b) RESPONSE TO NOTICE.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall provide each prospective plaintiff a written statement that—

(1) acknowledges receipt of the notice; and

(2) describes any actions that the defendant will take, or has taken, to address the defect or injury identified by the prospective plaintiff in the notice.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided under subsection (a)(1) during the 30-day period prescribed in subsection (b) or does not include in the response a description of actions referred to in subsection (b)(2)—

(1) the 90-day waiting period identified in subsection (a) shall terminate at the expiration of the 30-day period specified in subsection (b) with respect to that prospective defendant; and

(2) the prospective plaintiff may commence a year 2000 civil action against such prospective defendant immediately upon the termination of that waiting period.

(d) FAILURE TO PROVIDE NOTICE.—

(1) IN GENERAL.—Subject to subsections (c) and (e), a defendant may treat a complaint filed by the plaintiff as a notice required under subsection (a) by so informing the court and the plaintiff if the defendant determines that a plaintiff has commenced a year 2000 civil action—

(A) without providing the notice specified in subsection (a); or

(B) before the expiration of the 90-day waiting period specified in subsection (a).

(2) STAY.—If a defendant elects under paragraph (1) to treat a complaint as a notice—

(A) the court shall stay all discovery and other proceedings in the action for a period of 90 days beginning on the date of filing of the complaint; and

(B) the time for filing answers and all other pleadings shall be tolled during this 90-day period.

(e) EFFECT OF CONTRACTUAL WAITING PERIODS.—In any case in which a contract requires notice of nonperformance and provides for a period of delay before the initiation of suit for breach or repudiation of contract, the contractual period of delay controls and shall apply in lieu of the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—If a defendant acts under subsection (d) to stay an action, and the court subsequently finds that the assertion by the defendant that the action is a year 2000 civil action was frivolous and made for the purpose of causing unnecessary delay, the court may impose a sanction, including an order to make payments to opposing parties in accordance with Rule 11 of the Federal Rules of Civil Procedure.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION.

(a) REQUESTS MADE DURING NOTIFICATION PERIOD.—At any time during the 90-day notification period under section 101(a), either party may request the other party to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, the parties may also agree to an extension of that 90-day period.

(b) REQUEST MADE AFTER NOTIFICATION PERIOD.—At any time after expiration of the 90-day notification period under section 101(a), whether before or after the filing of a complaint, either party may request the other party to use alternative dispute resolution.

(c) PAYMENT DATE.—If a dispute that is the subject of the complaint or responsive pleading is resolved through alternative dispute resolution as provided in subsection (a) or (b), the defendant shall pay any amount of funds that the defendant is required to pay the plaintiff under the settlement not later than 30 days after the date on which the parties settle the dispute, and all other terms shall be implemented as promptly as possible based upon the agreement of the parties, unless another period of time is agreed to by the parties or established by contract between the parties.

SEC. 103. PLEADING REQUIREMENTS.

(a) NATURE AND AMOUNT OF DAMAGES.—In any year 2000 civil action in which a plaintiff seeks an award of money damages, the complaint shall state with particularity with regard to each year 2000 claim—

(1) the nature and amount of each element of damages; and

(2) the factual basis for the calculation of the damages.

(b) MATERIAL DEFECTS.—In any year 2000 civil action in which the plaintiff alleges that a product or service was defective, the complaint shall, with respect to each year 2000 claim—

(1) identify with particularity the manifestations of the material defects; and

(2) state with particularity the facts supporting the conclusion that the defects were material.

(c) REQUIRED STATE OF MIND.—In any year 2000 civil action in which a year 2000 claim is asserted with respect to which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each element of the claim, state in detail the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(d) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 civil action, the court shall, on the motion of any defendant, dismiss without prejudice any year 2000 claim asserted in the complaint if any of the requirements under subsection (a), (b), or (c) is not met with respect to the claim.

(2) STAY OF DISCOVERY.—In any year 2000 civil action, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—

(i) TREATMENT OF EVIDENCE.—During the pendency of any stay of discovery entered under this paragraph, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat the items described in clause (ii) as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(ii) ITEMS.—The items described in this clause are all documents, data compilations (including electronically stored or recorded data), and tangible objects that—

(I) are in the custody or control of the party described in clause (i); and

(II) relevant to the allegations.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with clause (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 104. DUTY TO MITIGATE.

(a) IN GENERAL.—There shall be no recovery for any year 2000 claim on account of injury that the plaintiff could reasonably have avoided in light of any disclosure or other information with respect to which the plaintiff was, or reasonably could have been, aware.

(b) DAMAGES.—The damages awarded for any claim described in subsection (a) shall exclude any amount that the plaintiff reasonably could have avoided in light of any disclosure or information described in that subsection.

TITLE II—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

SEC. 201. CONTRACT PRESERVATION.

(a) IN GENERAL.—Subject to subsections (b) and (c), notwithstanding any other provision of Federal or State statutory or case law, in any action in which a year 2000 claim is advanced, in resolving that claim all written contractual terms, including limitations or exclusions of liability or disclaimers of warranty, shall be fully enforceable.

(b) INTERPRETATION OF CONTRACT.—In any case in which a contract is silent as to a particular issue, the interpretation of the contract as to that issue shall be determined by applicable law in effect at the time that the contract was entered into.

(c) UNENFORCEABLE CONTRACTS.—Subsection (a) does not apply in any case in which a court determines that the contract as a whole is unenforceable due to an infirmity in the formation of the contract under applicable law in effect at the time the contract was entered into.

SEC. 202. EVIDENCE OF REASONABLE EFFORTS AND DEFENSES.

(a) REASONABLE EFFORTS.—In any action in which a year 2000 claim is advanced and in which a breach of contract or related claim is alleged, in the resolution of that claim, in addition to any other rights provided by applicable law, the party against whom the claim of breach is asserted shall be allowed, for the purpose of limiting or eliminating the defendant's liability, to offer evidence that the implementation of the contract by that party, or the efforts made by that party to implement the contract, were reasonable in light of the circumstances.

(b) IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY.—

(1) IN GENERAL.—In any action in which a year 2000 claim is advanced and in which a breach of contract or related claim is alleged, in resolving that claim applicability of the doctrines of impossibility and commercial impracticability shall be determined by applicable law in existence on January 1, 1999.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon the doctrines referred to in paragraph (1).

SEC. 203. DAMAGES LIMITATION.

In any action in which a year 2000 claim is advanced and that involves a breach of contract, warranty, or related claim, in resolving that claim the court shall not award any damages—

(1) unless those damages are provided for by the express terms of the contract; or

(2) if the contract is silent on those damages, by operation of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NON-CONTRACTUAL CLAIMS

SEC. 301. PROPORTIONATE LIABILITY.

(a) IN GENERAL.—Except in cases involving personal injury, a person against whom a final judgment is entered on a year 2000 claim shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that person, as determined under subsection (b).

(b) DETERMINATION OF RESPONSIBILITY.—

(1) IN GENERAL.—As to any year 2000 claim, the court shall instruct the jury to answer special interrogatories, or if there is no jury, make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of that person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify—

(A) the total amount of damages that the plaintiff is entitled to recover; and

(B) the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(4) NONDISCLOSURE TO JURY.—The standard for allocation of damages under paragraph (1) shall not be disclosed to members of the jury.

SEC. 302. STATE OF MIND AND FORESEEABILITY.

(a) DEFENDANT'S STATE OF MIND AS TO YEAR 2000 FAILURE.—With respect to any year 2000 claim for money damages in which the defendant's actual or constructive awareness of an actual or potential year 2000 failure is an element of the claim under applicable law, the defendant shall not be liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves by clear and convincing evidence that the defendant actually knew, or recklessly disregarded a known and substantial risk, that the failure would occur.

(b) INJURY TO PLAINTIFF.—With respect to any year 2000 claim for money damages in which the defendant's actual or constructive awareness of actual or potential harm to plaintiff is greater than the standard for negligence in subsection (c) and is an element of the claim under applicable law, the defendant shall not be liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves by clear and convincing evidence that the defendant actually knew, or recklessly disregarded a known and substantial risk, that plaintiff would suffer that harm.

(c) NEGLIGENCE.—With respect to any year 2000 claim for money damages, the defendant shall not be liable unless the plaintiff establishes by clear and convincing evidence, in addition to all other requisite elements of the claim, that the defendant knew or should have known that the actions of the defendant created an unreasonable risk of harm to the plaintiff.

(d) PRESERVATION OF EXISTING LAW.—Nothing in subsection (a), (b), or (c) shall be deemed to create any year 2000 claim or to relieve the plaintiff in any year 2000 civil action of the obligation of that plaintiff to establish any element of the cause of action of that plaintiff under applicable law.

SEC. 303. REASONABLE EFFORTS DEFENSE.

Except for breach or repudiation of contract claims, as to any year 2000 claim seeking money damages—

(1) the fact that a year 2000 failure occurred in an entity, facility, system, product, or component that was within the control of the party against whom the claim is asserted shall not constitute the sole basis for recovery; and

(2) the party against whom the claim is asserted shall be entitled to establish, as a complete defense to the claim, that the party took measures that were reasonable under the circumstances to prevent the year 2000 failure from occurring or from causing the damages upon which the claim is based.

SEC. 304. DAMAGES LIMITATION.

(a) IN GENERAL.—As to any year 2000 claim in which punitive damages may be awarded under applicable law and in which a defendant is found liable for punitive damages, the amount of punitive damages that may be awarded to a claimant shall not exceed the greater of—

(1) 3 times the amount awarded to the claimant for actual damages; or

(2) $250,000.

(b) SPECIAL RULE.—

(1) RULE.—

(A) IN GENERAL.—Notwithstanding subsection (a), as to any year 2000 claim in which the defendant is found liable for punitive damages and the defendant is an individual described in subparagraph (B), the amount of punitive damages shall not exceed the lesser of—

(i) 3 times the amount awarded to the claimant for actual damages; or

(ii) $250,000.

(B) DESCRIPTION OF INDIVIDUAL.—An individual described in this clause is an individual whose net worth does not exceed $500,000, is an owner of an unincorporated business that has fewer than 25 full-time employees, or is any partnership, corporation, association, unit of local government, or organization that has fewer than 25 full-time employees.

(2) APPLICABILITY.—For purposes of determining the applicability of this subsection to a corporation, the number of employees of a subsidiary of a wholly owned corporation shall include all employees of a parent corporation or any subsidiary of that parent corporation.

(c) APPLICATION OF LIMITATIONS BY THE COURT.—The limitations contained in subsection (a) or (b) shall be applied by the court and shall not be disclosed to the jury.

SEC. 305. ECONOMIC LOSSES.

(a) IN GENERAL.—Subject to subsection (b), a party to a year 2000 civil action may not recover economic losses for a year 2000 claim based on tort unless the party is able to show that at least one of the following circumstances exists:

(1) The recovery of these losses is provided for in the contract to which the party seeking to recover such losses is a party.

(2) If the contract is silent on those losses, and the application of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into would allow recovery of such losses.

(3) These losses are incidental to a claim in the year 2000 civil action based on personal injury caused by a year 2000 failure.

(4) These losses are incidental to a claim in the year 2000 civil action based on damage to tangible property caused by a year 2000 failure.

(b) TREATMENT OF ECONOMIC LOSSES.—Economic losses shall be recoverable in a year 2000 civil action only if applicable Federal law, or applicable State law embodied in statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses in the action.

SEC. 306. LIABILITY OF OFFICERS AND DIRECTORS.

(a) IN GENERAL.—A director, officer, or trustee of a business or other organization (including a corporation, unincorporated association, partnership, or non-profit organization) shall not be personally liable as to any year 2000 claim in the capacity of that individual as a director or officer of the business or organization for an aggregate amount greater than the greater of—

(1) $100,000; or

(2) the amount of cash compensation received by the director or officer from the business or organization during the 12-month period immediately preceding the act or omission for which liability was imposed.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to any claim in which it is found by clear and convincing evidence that the director or officer, with specific intent to cause harm to the plaintiff—

(1) intentionally made materially misleading statements relied upon by the plaintiff regarding any actual or potential year 2000 problem; or

(2) intentionally withheld material information regarding any actual or potential year 2000 problem of the business or organization that the director or officer had a duty to disclose.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to impose, or to permit the imposition of, personal liability on any director, officer, or trustee in excess of the aggregate amount of liability to which such director, officer, or trustee would be subject under applicable State law in existence on January 1, 1999 (including any charter or bylaw authorized by that State law).

TITLE IV—CLASS ACTIONS INVOLVING YEAR 2000 CLAIMS

SEC. 401. MINIMUM INJURY REQUIREMENT.

(a) IN GENERAL.—In any action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court with respect to that claim only if—

(1) the claim satisfies all other prerequisites established by applicable Federal or State law; and

(2) the court finds that the alleged defect in the product or service was a material defect with respect to a majority of the members of the class.

(b) DETERMINATION BY COURT.—

(1) IN GENERAL.—As soon as practicable after the commencement of an action involving a year 2000 claim that a product or service is defective and that is brought as a class action, the court shall determine by order whether the requirement stated in paragraph (1) is satisfied.

(2) ORDERS.—An order under this subsection may be—

(A) conditional; and

(B) altered or amended before the decision on the merits.

SEC. 402. NOTIFICATION.

(a) NOTICE BY MAIL.—

(1) IN GENERAL.—In any year 2000 civil action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class by United States mail, return receipt requested.

(2) EXCLUSION OF CERTAIN PERSONS.—Any person whose actual receipt of the notice is not verified by the court or by counsel for 1 of the parties shall be excluded from the class unless that person informs the court in writing, on a date no later than the commencement of trial or entry of judgment, that the person wishes wish to join the class.

(b) CONTENTS OF NOTICE.—In addition to any information required by applicable Federal or State law, the notice described in this subsection shall—

(1) concisely and clearly describe the nature of the action;

(2) identify the jurisdiction whose law will govern the action;

(3) identify any potential claims that class counsel chose not to pursue so that the action would satisfy class certification requirements; and

(4) describe the fee arrangement of class counsel.

SEC. 403. DISMISSAL PRIOR TO CERTIFICATION.

Before determining whether to certify a class in a year 2000 civil action, the court may decide a motion to dismiss or for summary judgment made by any party if the court concludes that decision will—

(1) promote the fair and efficient adjudication of the controversy; and

(2) not cause undue delay.

SEC. 404. FEDERAL JURISDICTION IN CLASS ACTIONS INVOLVING YEAR 2000 CLAIMS.

(a) DIVERSITY JURISDICTION.—Section 1332 of title 28, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following:

''(b)(1)(A) The district courts shall, regardless of the sum or value of the matter in controversy therein, have original jurisdiction of any year 2000 civil action which is brought as a class action and in which—

''(i) any member of a proposed plaintiff class is a citizen of a State different from any defendant;

''(ii) any member of a proposed plaintiff class is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

''(iii) any member of a proposed plaintiff class is a citizen of a State and any defendant is a citizen or subject of a foreign state.

''(B) As used in this paragraph, the term 'foreign state' has the meaning given that term in section 1603(a).

''(2)(A) The district court may, in its discretion, abstain from hearing such action in a year 2000 civil action described in paragraph (1) in which—

''(i) the substantial majority of the members of all proposed plaintiff classes are citizens of a single State of which the primary defendants are also citizens; and

''(ii) the claims asserted will be governed primarily by the laws of that State, the district court should abstain from hearing such action.

''(B) The district court may, in its discretion, abstain from hearing such action in a year 2000 civil action described in paragraph (1) in which—

''(i) all matters in controversy asserted by the individual members of all proposed plaintiff classes in the aggregate do not exceed the sum or value of $1,000,000, exclusive of interest and costs;

''(ii) the number of members of all proposed plaintiff classes in the aggregate is less than 100; or

''(iii) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief, the district court may, in its discretion, abstain from hearing such action.

''(3)(A) Paragraph (1) and section 1453 shall not apply to any class action that is brought under the Securities Act of 1933 (15 U.S.C. 77a et seq.).

''(B) Paragraph (1) and section 1453 shall not apply to a class action described in subparagraph (C) that is based upon the statutory or common law of the State in which the issuer concerned is incorporated (in the case of a corporation) or organized (in the case of any other entity).

''(C) A class action is described in this subparagraph if it involves—

''(i) the purchase or sale of securities by an issuer or an affiliate of an issuer exclusively from or to holders of equity securities of the issuer; or

''(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

''(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

''(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

''(D) As used in this paragraph, the terms 'issuer', 'security', and 'equity security' have the meanings given those terms in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).''.

(b) CONFORMING AMENDMENT.—Section 1332(c) of title 281 United States Code, (as redesignated by this section) is amended by inserting after ''pursuant to subsection (a)'' after ''Federal courts''.

(c) DETERMINATION OF DIVERSITY.—Section 1332, as amended by this section, is further amended by adding at the end the following:

''(f) For purposes of subsection (b), a member of a proposed class shall be deemed to be a citizen of a State different from a defendant corporation only if that member is a citizen of a State different from all States of which the defendant corporation is deemed a citizen.''.

(d) REMOVAL OF CLASS ACTIONS.—Chapter 89 of title 28, United States Code is amended by adding at the end the following:

''§ 1453. Removal of class actions

''(a) IN GENERAL.—A year 2000 civil action that is brought as a class action may be removed to a district court of the United States in accordance with this chapter, except that such action may be removed—

''(1) by any defendant without the consent of all defendants; or

''(2) by any plaintiff class member who is not a named or representative class member of the action for which removal is sought, without the consent of all members of such class.

''(b) WHEN REMOVABLE.—This section shall apply to any year 2000 civil action that is brought as a class action before or after the entry of any order certifying a class.

''(c) PROCEDURE FOR REMOVAL.—

''(1) IN GENERAL.—The provisions of section 1446(a) relating to a defendant removing a case shall apply to a plaintiff removing a case under this section.

''(2) APPLICATION.—With respect to the application of section 1446(b), the requirement relating to the 30-day filing period shall be met if a plaintiff class member who is not a named or representative class member of the action for which removal is sought files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action provided at the trial court's direction.''.

(e) REMOVAL LIMITATIONS.—Section 1446(b) is amended in the second undesignated paragraph—

(1) by inserting '', by exercising due diligence,'' after ''ascertained''; and

(2) by striking ''section 1332'' and inserting ''section''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 of title 28, United States Code, is amended by adding after the item relating to section 1452 the following:

''1453. Removal of class actions.''.

(g) PROCEDURE AFTER REMOVAL.—Section 1447 of title 28, United States Code, is amended by adding at the end the following:

''(f)(1) If, after removal, the court determines that no aspect of an action that is subject to its jurisdiction solely under the provisions of section 1332(b) may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, the court shall strike the class allegations from the action and remand the action to the State court.

''(2) Upon remand of the action, the period of limitations for any claim that was asserted in the action on behalf of any named or unnamed member of any proposed class shall be deemed tolled to the full extent provided under Federal law.''.

(h) APPLICATION OF SUBSTANTIVE STATE LAW.—Nothing in the amendments made by this section shall alter the substantive law

applicable to an action to which such amendments apply.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1999.

Mrs. FEINSTEIN. Mr. President, I rise along with my colleague from Utah, Senator HATCH, to introduce the Year 2000 Fairness and Responsibility Act. This bill, supported by more than 80 industry organizations, is especially important to California, where over 20 percent of the nation's high-tech jobs are located.

The genesis of the bill was a request by several industry groups—including the Semiconductor Industry Association (SIA), the National Association of Manufacturers (NAM), the Chamber of Commerce and the Information Technology Association of America—to develop legislation to prevent frivolous and baseless lawsuits that could jeopardize companies actually solving Y2K problems.

In concert with Senator HATCH and industry groups, a bill has been drafted that is narrow in focus and moderate in application. In developing this legislation, we have sought to solve an important problem and feel we have worked to develop a fair bill. We remain willing to address concerns with this legislation. It is a starting point, not a final piece of legislation.

This bill is a bill that will prevent frivolous and baseless litigation, but will not restrict an individual's right to sue to mitigate real damages.

Let me outline a few key provisions of the legislation.

First, this bill provides a 90-day ''cooling off period,'' during which no Y2K lawsuit may be filed and a three-step process must be followed:

A. Anyone alleging harm due to a Y2K failure must first provide written notice to the potential defendant of the problem.

B. The defendant then has 3 days to respond in writing.

C. The defendant also has 60 additional days to fix the problem.

This cooling off period is important because it allows companies to concentrate on solving the problem before suits are filed and hopefully, it will eliminate the rush to litigation that many anticipate.

Obviously, the hope is that if a company is given an opportunity to solve a Y2K problem, that company will proceed to do so with dispatch. Therefore, there will be fewer injured parties, ergo, fewer will need to file suit.

Second, the bill limits punitive damages to $250,000 or three times economic loss, whichever is greater. However, for individuals whose net worth does not exceed $500,000 or for small businesses, of fewer that 25 full-time employees, punitive damages would be limited to the lesser of $250,000 or three times economic damages.

Third, this bill provides for proportionate liability, so that a defendant would be limited to the percentage proportion of that defendant's fault in causing the alleged harm. In other words, ''no deep pockets.''

Fourth, the bill establishes requirements that the plaintiffs must allege specific harm and damages when filing suit, including the factual basis for the calculation of damages.

The bill also provides either party the opportunity to request Alternative Dispute Resolution at any time during the 90-day cooling off period provided for in this bill. If the parties agree to use Alternative Dispute Resolution and the dispute is settled, the defendant must pay the settlement in 30 days unless other arrangements are agreed to.

Sixth, the bill provides that if a contract specifically limits liability for actions that would include a Y2K action, no recovery is available beyond the contract terms. Recovery, however, is available if the contract does not mention liability limitations. Recovery is also available for any contract entered into without a true ''meeting of the minds.'' This would include contracts, for instance, between large companies and ordinary consumers. Even if the terms of use within a product box state a limit on liability, courts can award Y2K damages.

The bill also sets minimum injury requirements for class action lawsuits to prevent attorneys from gathering large numbers of plaintiffs that have not really even been harmed by a given Y2K defect.

Additionally, the bill requires that all potential class members be notified of a Y2K class action by U.S. mail, return receipt requested. That notice must include information about the nature of the action, the jurisdiction, claims that are not being pursued, and the arrangement for attorneys fees.

Ninth, the bill provides federal courts with jurisdiction over Y2K lawsuits so long as any member of the class is a citizen of a State different from the defendant (or is a citizen of a foreign country). Current law states that if any class representative of the class action is a citizen of the State in which the business is located, the federal courts have no diversity jurisdiction. This makes it easy for the attorneys filing a class action to have it heard in state court.

However, the bill does allow a federal court to abstain from exerting jurisdiction in cases where most class members are in the same State as the defendant and the case will be governed primarily by that State's law, or if the class is small or the amount in controversy is less than $1 million.

In summary, it is clear that there are consumers and businesses that have been and will be harmed by Y2K defects. For these companies and individuals impacted by Y2K problems, the Hatch-Feinstein bill preserves the right to sue and to recover damages, and actually increases their chances of finding a quick solution to their problems.

But the bill also prevents the kind of litigation nightmares that would distract from Y2K solutions and drain resources from already burdened companies throughout the country.

Mr. President, we believe that this bill represents a fair and reasoned approach to what is surely a real problem. But as I have said, this bill also represents a starting point, not an ending point. I look forward to working with my colleagues on both sides of the aisle to continue developing a fair bill that can pass in the near future. We must give businesses the reasonable protections they require to solve Y2K problems efficiently, quickly and without unnecessary distractions. I thank Senator HATCH for working with me on this issue, I urge my colleagues to contact us and to work towards a bipartisan, reasonable solution to this problem.

By Mr. DEWINE (for himself, Mr. COCHRAN, and Mr. VOINOVICH):

S. 462. A bill to amend the Internal Revenue Code of 1986, the Social Security Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970 to improve the method by which Federal unemployment taxes are collected and to improve the method by which funds are provided from Federal unemployment tax revenue for employment security administration, and for other purposes; to the Committee on Finance.

THE EMPLOYMENT SECURITY FINANCING ACT OF 1999

Mr. DEWINE. Mr. President, I rise today, on behalf of myself and Senators COCHRAN and VOINOVICH, to introduce the ''Employment Security Financing Act of 1999.''

As you may know, our nation's employment security system was established as a federal-state partnership more than 60 years ago. This system has not undergone major restructuring since its inception; however, a ''temporary'' .2% surtax was enacted in the 1970's. Today, this system overtaxes and overburdens employers, short-changes states, and, most importantly, underserves those who need it most—the involuntarily unemployed.

Two separate payroll taxes fund the employment security system. The most onerous and inefficient of these is the FUTA (Federal Unemployment Tax Act) tax. FUTA is a payroll tax collected by the IRS, dedicated to provide administrative funding for states through allocation from the Department of Labor (DOL). Unfortunately, FUTA taxes sent to Washington rarely find their way back to the states. In Fiscal Year 1997, DOL estimated that states sent more than $6 billion in FUTA taxes to Washington, but received only $3.1 billion in return.

Mr. President, reform of the unemployment insurance program is essential to a state like Ohio, which receives less than 39 cents of each employer FUTA dollar. This shortfall in funding has led to the closing of 22 local employment service offices during the last four years. In order to make up for

the shortfall of FUTA dollars, the Ohio legislature has appropriated more than $50 million during the last four years to pay for the administration of employment services, something that should be funded by FUTA taxes. This appropriation of state tax dollars forces Ohio taxpayers to pay twice to fund these services.

Ohio is not alone. Since 1990, less than 59 cents of every FUTA dollar has been sent back to the states. In fact, in 1997, states received a paltry 52% return on their FUTA tax dollars. As a result, many states are being forced to make up the shortfall from their own general funds, and cut back on other services provided to the unemployed.

For businesses, the system's consequences are equally severe. Employers are forced to pay two separate taxes. The current FUTA net tax rate is .8%, or a maximum of $56 per employee. In addition, employers must pay a similar state payroll tax to finance unemployment benefits. It is estimated that the nation's 6 million FUTA-paying employers spend a total of $1 billion annually simply complying with FUTA reporting requirments.

Mr. President, the Employment Security Financing Act is designed to address the problems the current system has imposed on the states and FUTA taxpayers. Specifically, it would: reduce the tax burden by repealing the ''temporary'' .2% FUTA surtax; streamline filings by transferring responsibility for collection of the FUTA tax from the IRS to the states; improve administration by ensuring that states get a greater return on their employers' FUTA tax dollars; improve services with an emphasis on reemployment; and combat fraud and abuse.

This is an important issue that Congress needs to consider. I look forward to working with others on legislation that can meet the budget rules, yet still achieve necessary reform of the unemployment insurance program.

I ask unanimous consent that letters of support from the National Federation of Independent Business, and Strategic Services on Unemployment & Workers' Compensation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STRATEGIC SERVICES ON UNEMPLOYMENT & WORKERS' COMPENSATION,
Washington, DC, February 19, 1999.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the business community, UWC enthusiastically endorses your proposal, the Employment Security Financing Reform Act, which will save employers $4 billion in unemployment tax and claim costs each year and provide a permanent fix for the chronic under-funding of state unemployment insurance (UI) and employment service agencies. UWC is the only national association specializing exclusively in unemployment and workers' compensation issues on behalf of business. Our members include large and small employers and national and state business organizations around the country. Enactment of your proposal is a top priority for UWC.

Only 50 cents out of each dollar now collected from employers under the Federal Unemployment Tax (FUTA) is used as intended for administering the state UI program. The balance of FUTA revenue is effectively diverted to other programs, disguising the true deficit in federal general revenues and accumulating IOU's in a sham Unemployment ''Trust Fund'' whose apparent buildup will later be used to justify higher unemployment benefits—all at employer expense. This charade would end under your proposal, which is a win/win/win for workers, business, and government. It will save money for employers and make government more efficient and responsive to local needs and conditions. The proposal achieves these results by reducing the FUTA rate and allowing states to fund their agencies at a level closer to the amount actually needed to administer unemployment benefits and help match jobless workers with employers eager to fill widespread job vacancies. It cuts paperwork for employers by eliminating the separate FUTA tax forms; gives each state rather than Washington responsibility to determine how much it needs to administer its unemployment and employment services agencies; and puts 100% of FUTA funds to work reducing state unemployment taxes on business.

As a business organization, UWC supports adequate but not excessive FUTA taxes. It is inexcusable that the federal government collects more under FUTA than is needed for sound UI administration and yet under-finances the agencies which are responsible for efforts to move UI claimants off the unemployment rolls and match workers with jobs. This under-funding directly inflates the cost of state unemployment benefits, which are financed through business payroll taxes at the state level. It has also caused the states to impose $200 million in additional state taxes to make up for the shortfall in FUTA funds doled out by the federal government. It's long past time to fix this problem, and we heartily applaud your leadership in seeking permanent FUTA reform.

Sincerely,

ERIC J. OXFELD,
President.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, February 22, 1999.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I want to commend you for introducing ''The Employment Security Financing Act of 1999.'' One of our top legislative priorities this year is to encourage Congress to cut payroll taxes and return the unemployment system to the states. Your legislation will ease the burden of unemployment taxes on small business and overhaul an inefficient and duplicative system.

Small businesses tend to be labor intensive, so they are disproportionately affected by taxes on labor. And unlike income taxes, payroll taxes must be paid whether a business makes a profit or loss. Most of our members survive on a thin margin of positive cash flow. Payroll taxes make that margin even thinner.

Importantly, your legislation takes steps to begin reducing the burden of one payroll tax—the Federal Unemployment Tax Act (FUTA). Specifically, it repeals the ''temporary'' FUTA surtax put in place in 1976 in order to repay loans from the federal unemployment trust fund. Even though this money was fully repaid in 1987, Congress has extended this temporary tax four times, imposing an annual $1.4 billion tax burden on America's employers and employees. Repeal of the surtax is long overdue.

As this legislation progresses through Congress, we hope that you will look for opportunities to further reduce FUTA taxes. Even with the elimination of the surtax, FUTA taxes collect far more than is needed for the program. In FY 1997, the Department of Labor estimates that states received only $3.1 billion of the $6 billion in FUTA taxes sent to Washington. Permanent FUTA taxes should be cut to reflect the lower costs of the program.

Finally, we support language in your legislation that transfers responsibility for collecting the FUTA tax from the IRS to the states. This will provide a much needed paperwork reduction boost for small business owners who currently have to fill our separate state and federal unemployment tax forms.

We thank you for introducing this important legislation and look forward to working with you in the coming months to enact it into law.

Sincerely,

DAN DANNER,
Vice President, Federal Public Policy.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, AND MS. LANDRIEU):

S. 465. A bill to meet the mental health substance abuse treatment needs of incarcerated children and youth; to the Committee on the Judiciary.

THE MENTAL HEALTH JUVENILE JUSTICE ACT

Mr. WELLSTONE. Mr. President, today, I am introducing legislation that outlines a comprehensive strategy for providing federal assistance to states and localities, to better serve children in need of mental health services who come in contact with our nation's juvenile justice system. I am pleased to be joined by Senators KENNEDY and LANDRIEU in this effort. The bill has received the strong support of over forty organizations including the American Bar Association, the American Psychiatric Association, the Children's Defense Fund, the United Church of Christ, and form states judges, probation and police officers.

Elie Wiesel once said: ''More than anything—more than hatred and torture—more than pain—do I fear indifference.'' We must be vigilant not to allow ourselves and our country to be indifferent to children's misery, particularly those children who may be sick, difficult, and test our patience, understanding, and compassion.

Yet, today, throughout America, I fear that we have become deeply indifferent to how we treat juveniles in the justice system who live in the shadow of mental illness.

Each year, more than one million youth come in contact with the juvenile justice system, and more than 100,000 of these youth are detained in some type of jail or prison. These children are overwhelmingly poor and a disproportionate number of children of color.

By the time many of these children are arrested and incarcerated, they have a long history of problems in their short lives. As many as two-thirds suffer from a mental or emotional disturbance. One in have has a

serious disorder. Many have substance abuse problems and learning disabilities. Most come from troubled homes.

The 'crimes' of these children vary. While some have committed violent crimes, some have committed petty theft or skipped school. Still others have simply run away from home to escape physical or sexual abuse from parents or other adults.

Despite popular opinion, most of the children who are locked up are not violent. Justice Department studies show that only one in twenty youth in the juvenile system have committed violent offenses.

Jails and juvenile detention centers often find themselves unprepared to deal with the mentally ill. For instance, medication may not be given or properly monitored. Or, guards may not know, for example, how to respond to disturbed youth who simply is not capable of standing in an orderly line for meals. A common result is that these kids are disciplined and put in solitary confinement.

What is happening to these troubled children is national tragedy. Across the country, we are dumping emotionally disturbed kids into juvenile prisons.

Why do so many youth with mental illness end up in the justice system? Children with mental disorders often behave in ways that bring them into conflict with family members, authority figures, and peers. Over the last ten years, the public attitude toward juvenile crime has grown toughter. Consequently, the juvenile justice system is casting a wilder net. A growing fear and intolerance of children who misbehave or commit nonviolent offenses have pushed children into the juvenile system who would not have ended up there in earlier times.

At the same time, our country has failed to invest adequately in services and programs that could reduce the need for incarceration. These include mental health services. The warning signs for delinquency are well known—school failure, drug and alcohol abuse, family violence and abuse, and poverty. Yet, we have failed to put in place community prevention, screening, and early intervention services for those children most at risk. Proper mental health treatment can prevent or reduce offending. But many communities don't have adequate treatment services for children and their families.

For example, a recent report by Louisiana state officials acknowledged that secure facilities held many children who had been ''discarded'' from the educational, child welfare and other systems of care. I have heard that social workers in a number of states have been even instructed desperate parents to have their children arrested in order to get services because community health services are so scarce.

Last July, I went with the National Mental Health Association to the Tallulah Correctional Center for Youth, a privately-owned correctional facility for over 600 youth in northeast Louisiana, to see firsthand the shocking civil rights violations cited by the U.S. Department of Justice. I left with vivid and disturbing images of how we are dealing with youth with mental and emotional problems in this country.

While in Tallulah, I saw one hallucinating and suicidal child in isolation for observation, yet his transfer to an appropriate mental health facility was uncertain. Another child I met was taking three different types of powerful psychiatric medications, but had only seen a psychiatrist twice in the last eight months. The Justice Department reports chronicled instances where boys were being repeatedly sexually and physically abused, and children with mental illnesses were being housed with youths who have committed violent crimes. Mentally ill children received no therapy, and when they were having symptoms, they were isolated or punished for their illness.

Tallulah is not the only offending facility, however. The Justice Department has exposed gross abuses in Georgia, Kentucky, and other juvenile facilities in Louisiana. Other states are also experiencing similar problems. Investigators found extreme cases of physical abuse and neglect of mental health needs, including unwarranted and prolonged isolation of suicidal children, hog-tie and chemical restraints used on youth with serious emotional disturbances, forced medication and even denial of medication. Children with extensive psychiatric histories who are prone to self-mutilation (e.g., cutting themselves with glass) never even saw a psychiatrist.

In some cases, abusive treatment of these children results directly from their being emotionally disturbed. Staff in juvenile facilities fail to recognize, and in fact punish them for, the symptom of their disorders. Children have been punished for requesting treatment or put in isolation when they refused to accept treatment. One child in a boot camp was punished for making involuntary noises that were symptoms of his Tourette's syndrome. Mental disorders are being handled almost solely through discipline, isolation, and restraints according to investigations by the US Justice Department and human rights groups.

A recent survey by the California Youth Authority found that 35 percent of boys in its custody and 73 percent of girls need treatment. One reason for the higher percentage of young people with mental illness in jail, specialists say, is that many states have cut budgets for adolescent psychiatric care, even more than those for adults.

If a child had a broken leg, would any institution leave that leg unattended? Why then, in America, are we dumping children with mental health problems in institutions without treatment, and under conditions which can only worsen their illnesses?

Our current system fails mentally ill children. How? The screening and treatment of mental and emotional disorders are inadequate or nonexistent at correctional facilities. Mental illness is often addressed solely through discipline, isolation, and restraint. At Tallulah, children told us that they were beaten and were put in isolation for long periods, even months—echoing in painful detail what had been revealed in the Justice Department reports.

The tragedy of this situation is that we know what works—treatment—but our current system for children with mental illness favors punishment over treatment. For children, we know that family-focused, individualized treatment delivered in the child's community can improve children's mental health and prevent them from offending in the first place. It is proven that integrating these mental health and substance abuse services with schools and child welfare agencies produces even greater success. In fact, linked community services have been shown to reduce contact with the juvenile justice system by 46 percent.

My legislation would help states provide critical assistance to these children who suffer from mental disorders. It focuses on providing appropriate services that can both prevent them from committing delinquent offenses and from reoffending, and it is structured so that services are planned and integrated at the local level.

First, it provides funds to train juvenile justice personnel on the identification and appropriate treatment of mental illness in kids, and on the use of community-based alternatives to incarceration. Currently, juvenile justice system personnel lack routine training to deal with mentally ill youth, many of whose low risk factors make them good candidates for alternative treatment programs in the community.

Second, it authorizes a new treatment and diversion block grant program to state and localities. Despite studies showing large numbers of incarcerated children having psychiatric disorders, we know that screening, assessment and treatment for children's mental disorders is grossly inadequate. Further, many of these kids have multiple problems before they are locked-up, and are involved with several different child agencies and systems. Typically, these agencies shift the care and costs for serving a child back and forth. The result is that the child and the family never receive the services they need. States will be able to access the new block grant funds to develop and implement integrated treatment and diversion programs for juveniles who come up against the police and the courts.

Third, it will establish training and technical assistance centers. Now, States do not have the information and technical assistance they need to provide appropriate services for youth with mental health disorders. Further,

it will establish a federal council which will report to Congress on recommendations to improve the treatment of mentally ill children who come into contact with the justice system.

Next, it will give States the choice whether to use their federal prison construction funds for treatment of incarcerated mentally ill and children.

Finally, if will amend the Prison Litigation Reform Act, by restoring to federal courts the authority to remedy abuse conditions in juvenile justice facilities. Congress passed the act in 1996 largely to reduce frivolous pro se lawsuits by prisoners, and nothing in my bill would affect those provisions of the PLRA. Yet, the PLRA has had a devastating effect on the conditions in which juvenile offenders and mentally ill prisoners are held. My provision would not repeal the PLRA or adversely effect the crackdown on frivolous lawsuits. Instead, it would carve out a narrow exception to the PLRA restrictions in limited circumstances, involving children and the mentally ill, for it has been shown again and again that they are particularly vulnerable to abuse and neglect in state institutions.

We can no longer be indifferent to this national tragedy. What I saw in Tallulah, and what is happening in countless facilities across this country, is a disgrace. The wholesale neglect of juveniles with mental illness in our prisons must end. We as a society have the moral obligation to see they get the help they need. Treating young people with mental disorders in dehumanizing ways is not the answer to questions of crime prevention and public safety. And it's not the way to make children productive, law abiding, and caring citizens. I urge my colleagues to support this important legislation.

I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 465

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 ''Mental Health Juvenile Justice Act''.

SEC. 2. TRAINING OF JUSTICE SYSTEM PERSONNEL.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by adding at the end the following:

''PART K—ACCESS TO MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT

''SEC. 299AA. GRANTS FOR TRAINING OF JUSTICE SYSTEM PERSONNEL.

''(a) IN GENERAL.—The Administrator shall make grants to State and local juvenile justice agencies in collaboration with State and local mental health agencies, for purposes of training the officers and employees of the State juvenile justice system (including employees of facilities that are contracted for operation by State and local juvenile authorities) regarding appropriate access to mental health and substance abuse treatment programs and services in the State for juveniles who come into contact with the State juvenile justice system who have mental health or substance abuse problems.

''(b) USE OF FUNDS.—A State or local juvenile justice agency that receives a grant under this section may use the grant for purposes of—

''(1) providing cross-training, jointly with the public mental health system, for State juvenile court judges, public defenders, and mental health and substance abuse agency representatives with respect to the appropriate use of effective, community-based alternatives to juvenile justice or mental health system institutional placements; or

''(2) providing training for State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs and mental health community programs, specifically focusing on the identification of mental disorders and substance abuse addiction in juveniles on probation, effective treatment interventions for those disorders, and making appropriate contact with mental health and substance abuse case managers and programs in the community, in order to ensure that juveniles on probation receive appropriate access to mental health and substance abuse treatment programs and services.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund, $50,000,000 for fiscal years 1999, 2000, 2001, 2002, and 2003 to carry out this section.''.

SEC. 3. BLOCK GRANT FUNDING FOR TREATMENT AND DIVERSION PROGRAMS.

Part K of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by adding at the end the following:

''SEC. 299BB. GRANTS FOR STATE PARTNERSHIPS.

''(a) IN GENERAL.—The Attorney General and the Secretary of Health and Human Services shall make grants to partnerships between State and local/county juvenile justice agencies and State and local mental health authorities (or appropriate children service agencies) in accordance with this section.

''(b) USE OF FUNDS.—A partnership described in subsection (a) that receives a grant under this section shall use such amounts for the establishment and implementation of programs that address the service needs of juveniles who come into contact with the justice system (including facilities contracted for operation by State or local juvenile authorities) who have mental health or substance abuse problems, by requiring the following:

''(1) DIVERSION.—Appropriate diversion of those juveniles from incarceration—

''(A) at imminent risk of being taken into custody;

''(B) at the time they are initially taken into custody;

''(C) after they are charged with an offense or act of juvenile delinquency;

''(D) after they are adjudicated delinquent but prior to case disposition; and

''(E) after they are released from a juvenile facility, for the purposes of attending aftercare programs.

''(2) TREATMENT.—

''(A) SCREENING AND ASSESSMENT OF JUVENILES.—

''(i) IN GENERAL.—Initial mental health screening shall be completed for all juveniles immediately upon entering the juvenile justice system or a juvenile facility. Screening shall be conducted by qualified health and mental health professionals or by staff who have been trained by qualified health, mental health, and substance abuse professionals. In the case of a screening by staff, the screening results should be reviewed by qualified health, mental health professionals not later than 24 hours after the screening.

''(ii) ACUTE MENTAL ILLNESS.—Juveniles who suffer from acute mental disorders, who are suicidal, or in need of detoxification shall be placed in or immediately transferred to an appropriate medical or mental health facility. They shall be admitted to a secure correctional facility only with written medical clearance.

''(iii) COMPREHENSIVE ASSESSMENT.—All juveniles entering the juvenile justice system shall have a comprehensive assessment conducted and an individualized treatment plan written and implemented within 2 weeks. This assessment shall be conducted within 1 week for juveniles incarcerated in secure facilities. Assessments shall be completed by qualified health, mental health, and substance abuse professionals.

''(B) TREATMENT.—

''(i) IN GENERAL.—If the need for treatment is indicated by the assessment of a juvenile, the juvenile shall be referred to or treated by a qualified professional. A juvenile who is currently receiving treatment for a mental or emotional disorder shall have treatment continued.

''(ii) PERIOD.—Treatment shall continue until additional mental health assessment determines that the juvenile is no longer in need of treatment. Treatment plans shall be reevaluated at least every 30 days.

''(iii) DISCHARGE PLAN.—An incarcerated juvenile shall have a discharge plan prepared when the juvenile enters the correctional facility in order to integrate the juvenile back into the family or the community. This plan shall be updated in consultation with the juvenile's family or guardian before the juvenile leaves the facility. Discharge plans shall address the provision of aftercare services.

''(iv) MEDICATION.—Any juvenile receiving psychotropic medications shall be under the care of a licensed psychiatrist. Psychotropic medications shall be monitored regularly by trained staff for their efficacy and side effects.

''(v) SPECIALIZED TREATMENT.—Specialized treatment and services shall be continually available to a juvenile who—

''(I) has a history of mental health problems or treatment;

''(II) has a documented history of sexual abuse or offenses, as victim or as perpetrator;

''(III) has substance abuse problems, health problems, learning disabilities, or histories of family abuse or violence; or

''(IV) has developmental disabilities.

''(C) MEDICAL AND MENTAL HEALTH EMERGENCIES.—All correctional facilities shall have written policies and procedures on suicide prevention. All staff working in correctional facilities shall be trained and certified annually in suicide prevention. Facilities shall have written arrangements with a hospital or other facility for providing emergency medical and mental health care. Physical and mental health services shall be available to an incarcerated juvenile 24 hours per day, 7 days per week.

''(D) CLASSIFICATION OF JUVENILES.—

''(i) IN GENERAL.—Juvenile facilities shall classify and house juveniles in living units according to a plan that includes age, gender, offense, special medical or mental health condition, size, and vulnerability to victimization. Younger, smaller, weaker, and more vulnerable juveniles shall not be placed in housing units with older, more aggressive juveniles.

''(ii) BOOT CAMPS.—Juveniles who are under 13 years old or who have serious medical conditions or mental illness shall not be placed in paramilitary boot camps.

''(E) CONFIDENTIALITY OF RECORDS.—Mental health and substance abuse treatment records of juveniles shall be treated as confidential and shall be excluded from the records that States require to be routinely released to other correctional authorities and school officials.

''(F) MANDATORY REPORTING.—States shall keep records of the incidence and types of mental health and substance abuse disorders in their juvenile justice populations, the range and scope of services provided, and barriers to service. The State shall submit an analysis of this information yearly to the Department of Justice.

''(G) STAFF RATIOS FOR CORRECTIONAL FACILITIES.—Each secure correctional facility shall have a minimum ratio of no fewer than 1 mental health counselor to every 50 juveniles. Mental health counselors shall be professionally trained and certified or licensed. Each secure correctional facility shall have a minimum ratio of 1 clinical psychologist for every 100 juveniles. Each secure correctional facility shall have a minimum ratio of 1 licensed psychiatrist for every 100 juveniles receiving psychiatric care.

''(H) USE OF FORCE.—

''(i) WRITTEN GUIDELINES.—All juvenile facilities shall have a written behavioral management system based on incentives and rewards to reduce misconduct and to decrease the use of restraints and seclusion by staff.

''(ii) LIMITATIONS ON RESTRAINT.—Control techniques such as restraint, seclusion, chemical sprays, and room confinement shall be used only in response to extreme threats to life or safety. Use of these techniques shall be approved by the facility superintendent or chief medical officer and documented in the juvenile's file along with the justification for use and the failure of less restrictive alternatives.

''(iii) LIMITATION ON ISOLATION.—Isolation and seclusion shall be used only for immediate and short-term security or safety reasons. No juvenile shall be placed in isolation without approval of the facility superintendent or chief medical officer or their official staff designee. All cases shall be documented in the juvenile's file along with the justification. A juvenile shall be in isolation only the amount of time necessary to achieve security and safety of the juvenile and staff. Staff shall monitor each juvenile in isolation once every 15 minutes and conduct a professional review of the need for isolation at least every 4 hours. Any juvenile held in seclusion for 24 hours shall be examined by a physician or licensed psychologist.

''(I) IDEA AND REHABILITATION ACT.—All juvenile facilities shall abide by all mandatory requirements and time lines set forth under the Individuals with Disabilities Education Act and section 504 of the Rehabilitation Act of 1973.

''(J) ADVOCACY ASSISTANCE.—

''(i) IN GENERAL.—The Secretary of Health and Human Services shall make grants to the systems established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) to monitor the mental health and special education services provided by grantees to juveniles under paragraph (2) (A), (B), (C), (H), and (I) of this section, and to advocate on behalf of juveniles to assure that such services are properly provided.

''(ii) APPROPRIATION.—The Secretary of Health and Human Services will reserve no less than 3 percent of the funds appropriated under this section for the purposes set forth in paragraph (2)(J)(i).

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund, $500,000,000 for fiscal years 1999, 2000, 2001, 2002, and 2003 to carry out this section.

''(2) ALLOCATION.—Of amounts appropriated under paragraph (1)—

''(A) 35 percent shall be used for diversion programs under subsection (b)(1); and

''(B) 65 percent shall be used for treatment programs under subsection (b)(2).

''(3) INCENTIVES.—The Attorney General and the Secretary of Health and Human Services shall give preference under subsection (b)(2) to partnerships that integrate treatment programs to serve juveniles with co-occurring mental health and substance abuse disorders.

''(4) WAIVERS.—The Attorney General and the Secretary of Health and Human Services may grant a waiver of requirements under subsection (b)(2) for good cause.

''SEC. 299CC. GRANTS FOR PARTNERSHIPS.

''(a) IN GENERAL.—Any partnership desiring to receive a grant under this part shall submit an application at such time, in such manner, and containing such information as the Attorney General and the Secretary of Health and Human Services may prescribe.

''(b) CONTENTS.—In accordance with guidelines established by the Attorney General and the Secretary of Health and Human Services, each application submitted under subsection (a) shall—

''(1) set forth a program or activity for carrying out one or more of the purposes specified in section 299BB(b) and specifically identify each such purpose such program or activity is designed to carry out;

''(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

''(3) provide for the proper and efficient administration of such program or activity;

''(4) provide for regular evaluation of such program or activity;

''(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community; and

''(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds receiving under this part.''.

SEC. 4. INITIATIVE FOR COMPREHENSIVE, INTERSYSTEM PROGRAMS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended by adding at the end the following:

''SEC. 520C. INITIATIVE FOR COMPREHENSIVE, INTERSYSTEM PROGRAMS.

''(a) IN GENERAL.—The Attorney General and the Secretary, acting through the Director of the Center for Mental Health Services, shall award competitive grants to eligible entities for programs that address the service needs of juveniles and juveniles with serious mental illnesses by requiring the State or local juvenile justice system, the mental health system, and the substance abuse treatment system to work collaboratively to ensure—

''(1) the appropriate diversion of such juveniles and juveniles from incarceration;

''(2) the provision of appropriate mental health and substance abuse services as an alternative to incarceration and for those juveniles on probation or parole; and

''(3) the provision of followup services for juveniles who are discharged from the juvenile justice system.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

''(1) be a State or local juvenile justice agency, mental health agency, or substance abuse agency (including community diversion programs);

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) an assurance that the applicant has the consent of all entities described in paragraph (1) in carrying out and coordinating activities under the grant; and

''(B) with respect to services for juveniles, an assurance that the applicant has collaborated with the State or local educational agency and the State or local welfare agency in carrying out and coordinating activities under the grant;

''(3) be given priority if it is a joint application between juvenile justice and substance abuse or mental health agencies; and

''(4) ensure that funds from non-Federal sources are available to match amounts provided under the grant in an amount that is not less than—

''(A) with respect to the first 3 years under the grant, 25 percent of the amount provided under the grant; and

''(B) with respect to the fourth and fifth years under the grant, 50 percent of the amount provided under the grant.

''(c) USE OF FUNDS.—

''(1) INITIAL YEAR.—An entity that receives a grant under this section shall, in the first fiscal year in which amounts are provided under the grant, use such amounts to develop a collaborative plan—

''(A) for how the guarantee will institute a system to provide intensive community services—

''(i) to prevent high-risk juveniles from coming in contact with the justice system; and

''(ii) to meet the mental health and substance abuse treatment needs of juveniles on probation or recently discharged from the justice system; and

''(B) providing for the exchange by agencies of information to enhance the provision of mental health or substance abuse services to juveniles.

''(2) 2–5TH YEARS.—With respect to the second through fifth fiscal years in which amounts are provided under the grant, the grantee shall use amounts provided under the grant—

''(A) to furnish services, such as assertive community treatment, wrap-around services for juveniles, multisystemic therapy, outreach, integrated mental health and substance abuse treatment, case management, health care, education and job training, assistance in securing stable housing, finding a job or obtaining income support, other benefits, access to appropriate school-based services, transitional and independent living services, mentoring programs, home-based services, and provision of appropriate after school and summer programing;

''(B) to establish a network of boundary spanners to conduct regular meetings with judges, provide liaison with mental health and substance abuse workers, share and distribute information, and coordinate with mental health and substance abuse treatment providers, and probation or parole officers concerning provision of appropriate mental health and drug and alcohol addiction services for individuals on probation or parole;

''(C) to provide cross-system training among police, corrections, and mental health and substance abuse providers with the purpose of enhancing collaboration and the effectiveness of all systems;

''(D) to provide coordinated and effective aftercare programs for juveniles with emotional or mental disorders who are discharged from jail, prison, or juvenile facilities;

''(E) to purchase technical assistance to achieve the grant project's goals; and

''(F) to furnish services, to train personnel in collaborative approaches, and to enhance intersystem collaboration.

''(3) DEFINITION.—In paragraph (2)(B), the term 'boundary spanners' means professionals who act as case managers for juveniles with mental disorders and substance abuse addictions, within both justice agency facilities and community mental health programs and who have full authority from both systems to act as problem-solvers and advocates on behalf of individuals targeted for service under this program.

''(d) AREA SERVED BY THE PROJECT.—An entity receiving a grant under this section shall conduct activities under the grant to serve at least a single political jurisdiction.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There shall be made available to carry out the section, not less than 10 percent of the amount appropriated under section 1935(a) for each of the fiscal years 1999 through 2003.''.

SEC. 5. INTERAGENCY RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE CENTERS.

(a) GRANTS OR CONTRACTS.—The Secretary of Health and Human Services, acting through the Substance Abuse and Mental Health Services Administration and in consultation with the Juvenile Justice and Delinquency Prevention Office and the Justice Assistance Bureau, shall award grants and contracts for the establishment of 4 research, training, and technical assistance centers to carry out the activities described in subsection (c).

(b) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a), an entity shall—

(1) be a public or nonprofit private entity; and

(2) prepare and submit to the Secretary of Health and Human Services an application, at such time, in such manner, and containing such information as the Secretary may require.

(c) ACTIVITIES.—A center established under a grant or contract under subsection (a) shall—

(1) provide training with respect to state-of-the-art mental health and justice-related services and successful mental health and substance abuse-justice collaborations, to public policymakers, law enforcement administrators, public defenders, police, probation officers, judges, parole officials, jail administrators and mental health and substance abuse providers and administrators;

(2) engage in research and evaluations concerning State and local justice and mental health systems, including system redesign initiatives, and disseminate information concerning the results of such evaluations;

(3) provide direct technical assistance, including assistance provided through toll-free telephone numbers, concerning issues such as how to accommodate individuals who are being processed through the courts under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), what types of mental health or substance abuse service approaches are effective within the judicial system, and how community-based mental health or substance abuse services can be more effective, including relevant regional, ethnic, and gender-related considerations; and

(4) provide information, training, and technical assistance to State and local governmental officials to enhance the capacity of such officials to provide appropriate services relating to mental health or substance abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, $4,000,000 for each fiscal year to carry out this section.

SEC. 6. FEDERAL COORDINATING COUNCIL ON THE CRIMINALIZATION OF JUVENILES WITH MENTAL DISORDERS.

(a) ESTABLISHMENT.—There is established a Federal Coordinating Council on Criminalization of Juveniles With Mental Disorders as an interdepartmental council to study and coordinate the criminal and juvenile justice and mental health and substance abuse activities of the Federal Government and to report to Congress on proposed new legislation to improve the treatment of mentally ill juveniles who come in contact with the juvenile justice system.

(b) MEMBERSHIP.—The Council shall include representatives from—

(1) the appropriate Federal agencies, as determined by the President, including, at a minimum—

(A) the Office of the Secretary of Health and Human Services;

(B) the Office for Juvenile Justice and Delinquency Prevention;

(C) the National Institute of Mental Health;

(D) the Social Security Administration;

(E) the Department of Education; and

(F) the Substance Abuse and Mental Health Services Administration; and

(2) children's mental health advocacy groups.

(c) DUTIES.—The Council shall—

(1) review Federal policies that hinder or facilitate coordination at the State and local level between the mental health and substance abuse systems on the one hand and the juvenile justice and corrections system on the other;

(2) study the possibilities for improving collaboration at the Federal, State, and local level among these systems; and

(3) recommend to Congress any appropriate new initiatives which require legislative action.

(d) FINAL REPORT.—The Council shall submit—

(1) an interim report on current coordination and collaboration, or lack thereof, 18 months after the Council is established; and

(2) recommendations for new initiatives in improving coordination and collaboration in a final report to Congress 2 years after the Council is established.

(e) EXPIRATION.—The Council shall expire 2 years after the Council is established.

SEC. 7. MENTAL HEALTH SCREENING AND TREATMENT FOR PRISONERS.

(a) ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 2001, have a program of mental health screening and treatment for appropriate categories of juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104, may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

''(B) ADDITIONAL USE.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.''.

SEC. 8. INAPPLICABILITY OF AMENDMENTS.

Section 3626 of title 18 is amended by adding at the end the following:

''(h) INAPPLICABILITY OF AMENDMENTS.—A civil action that seeks to remedy conditions which pose a threat to the health of individuals who are—

''(1) under the age of 16; or

''(2) mentally ill;

shall be governed by the terms of this section, as in effect on the day before the date of enactment of the Prison Litigation Reform Act of 1995 and the amendments made by that Act (18 U.S.C. 3601 note).''.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. WARNER, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 4, supra.

S. 61

At the request of Mr. DEWINE, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 77

At the request of Mr. LUGAR, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 77, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from estate taxes.

S. 92

At the request of Mr. DOMENICI, the names of the Senator from Georgia (Mr. COVERDELL) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 92, a bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 98

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 170

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 170, a bill to permit revocation by members of the clergy of their exemption from Social Security coverage.

S. 171

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 171, a bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles.

S. 174

At the request of Mr. MOYNIHAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 174, a bill to provide funding for States to correct Y2K problems in computers that are used to administer State and local government programs.

S. 211

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. ENZI), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 211, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 213

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 213, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distilled spirits, and for other purposes.

S. 217

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was withdrawn as a cosponsor of S. 217, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of charitable transfers of collections of personal papers with a separate right to control access.

S. 227

At the request of Mr. COVERDELL, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 227, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 261

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 261, a bill to amend the Trade Act of 1974, and for other purposes.

S. 271

At the request of Mr. FRIST, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 279

At the request of Mr. MCCAIN, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. COVERDELL), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 280

At the request of Mr. FRIST, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 296

At the request of Mr. FRIST, the names of the Senator from Maine (Ms. SNOWE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 309

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 309, A bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 314

At the request of Mr. BOND, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. COVERDELL), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 314, a bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 327

At the request of Mr. HAGEL, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 327, a bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions.

S. 331

At the request of Mr. JEFFORDS, the names of the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. BYRD), and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 383

At the request of Mr. WYDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 383, a bill to establish a national policy of basic consumer fair treatment for airline passengers.

S. 393

At the request of Mr. MCCAIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 393, a bill to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents.

S. 395

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Ohio (Mr. DEWINE), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 395, a bill to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

S. 447

At the request of Mr. BURNS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 447, a bill to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999.

SENATE JOINT RESOLUTION 1

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Minnesota (Mr. GRAMS), the Senator from Oklahoma (Mr. INHOFE), the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 5

At the request of Mr. BROWNBACK, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Michigan (Mr. LEVIN), the Senator from Tennessee (Mr. FRIST), the Senator from Kansas (Mr. ROBERTS), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of Senate Concurrent Resolution 5, a concurrent resolution expressing congressional opposition to the unilateral declaration of a Palestinian state and urging the President to assert clearly

United States opposition to such a unilateral declaration of statehood.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE RESOLUTION 26

At the request of Mr. MURKOWSKI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of Senate Resolution 26, a resolution relating to Taiwan's participation in the World Health Organization.

SENATE RESOLUTION 47

At the request of Mr. MURKOWSKI, the names of the Senator from Utah (Mr. HATCH), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Resolution 47, A resolution designating the week of March 21 through March 27, 1999, as ''National Inhalants and Poisons Awareness Week''.

SENATE RESOLUTION 48

At the request of Mrs. HUTCHISON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 48, A resolution designating the week beginning March 7, 1999, as ''National Girl Scout Week''.

SENATE RESOLUTION 49—AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE FOR THE PERIOD MARCH 1, 1999 THROUGH SEPTEMBER 30, 1999

Mr. MCCONNELL (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 49

SECTION 1. AGGREGATE AUTHORIZATION.

(a) IN GENERAL.—For purposes of carrying out the powers, duties, and functions of the Senate under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized for the period March 1, 1999, through September 30, 1999, in the aggregate of $28,632,851, in accordance with the provisions of this resolution, for all Standing Committees of the Senate, for the Committee on Indian Affairs, the Special Committee on Aging, and the Select Committee on Intelligence.

(b) REPORTING LEGISLATION.—Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than September 30, 1999.

(c) EXPENSES OF COMMITTEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required—

(A) for the disbursement of salaries of employees of the committee who are paid at an annual rate;

(B) for the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, Department of Telecommunications;

(C) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate;

(D) for payments to the Postmaster, United States Senate;

(E) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate; or

(F) for the payment of Senate Recording and Photographic Services.

(d) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees from March 1, 1999, through September 30, 1999, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations'' of the Senate.

SEC. 2. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,091,991, of which amount—

(1) not to exceed $4,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. COMMITTEE ON ARMED SERVICES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,693,175 of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 4. COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,784,395, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $850, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 5. COMMITTEE ON THE BUDGET.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,945,784, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 6. COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the

Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,157,797, of which amount—

(1) not to exceed $14,572, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $15,600, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 7. COMMITTEE ON ENERGY AND NATURAL RESOURCES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,650,792.

SEC. 8. COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,518,386, of which amount—

(1) not to exceed $8,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 9. COMMITTEE ON FINANCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,892,206, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 10. COMMITTEE ON FOREIGN RELATIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,697,074, of which amount—

(1) not to exceed $45,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 11. COMMITTEE ON GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,836,961, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,470, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an

impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of the committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1999, through September 30, 1999, is authorized, in its, his, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 54, agreed to February 13, 1997 (105th Congress) are authorized to continue.

SEC. 12. COMMITTEE ON THE JUDICIARY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,733,379, of which amount—

(1) not to exceed $60,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 13. COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,574,140, of which amount—

(1) not to exceed $22,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $12,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 14. COMMITTEE ON RULES AND ADMINISTRATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $929,755, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 15. COMMITTEE ON SMALL BUSINESS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $677,992, of which amount—

(1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 16. COMMITTEE ON VETERANS' AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance

with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $703,242, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $3,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946).

SEC. 17. SPECIAL COMMITTEE ON AGING.

(a) GENERAL AUTHORITY.—In carrying out the duties and functions imposed by section 104 of S. Res. 4, agreed to February 4, 1977, (Ninety-fifth Congress), and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $708,185, of which amount not to exceed $15,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i)of the Legislative Reorganization Act of 1946).

SEC. 18. SELECT COMMITTEE ON INTELLIGENCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Congress), in accordance with its jurisdiction under section 3(a) of that resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of that resolution, the Select Committee on Intelligence is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,325,017, of which amount not to exceed $35,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946).

SEC. 19. COMMITTEE ON INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out the duties and functions imposed by section 105 of S. Res. 4, agreed to February 4, 1977 (Ninety-fifth Congress), and in exercising the authority conferred on it by that section, the Committee on Indian Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $712,580, of which amount not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946).

SEC. 20. SPECIAL RESERVES.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Of the funds authorized for the Senate committees listed in sections 3 through 21 by S. Res. 54, agreed to February 13, 1997 (105th Congress), for the funding period ending on the last day of February 1999, any unexpended balances remaining shall be transferred to a special reserve which shall, on the basis of a special need and at the request of a Chairman and Ranking Member of any such committee, and with the approval of the Chairman and Ranking Member of the Committee on Rules and Administration, be available to any committee for the purposes provided in subsection (b).

(2) PAYMENT OF INCURRED OBLIGATIONS.—During March 1999, obligations incurred but not paid by February 28, 1999, shall be paid from the unexpended balances of committees before transfer to the special reserves and any obligations so paid shall be deducted from the unexpended balances of committees before being transferred to the special reserves.

(b) PURPOSES.—The reserves established in subsection (a) shall be available for the period commencing March 1, 1999, and ending with the close of September 30, 1999, for the purpose of—

(1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1999, and which were not deducted from the unexpended balances under subsection (a); and

(2) meeting expenses incurred after such last day and prior to the close of September 30, 1999.

AMENDMENTS SUBMITTED

SOLDIERS', SAILORS', AIRMEN'S, AND MARINES' BILL OF RIGHTS ACT OF 1999

BOND AMENDMENT NO. 20

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill (S. 4) to improve pay and retirement equity for members of the Armed Forces; and for other purposes; as follows:

On page 46, after line 16, add the following:

TITLE V—OTHER BENEFITS

SECTION 501. MEDICARE PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF PART B LATE ENROLLMENT PENALTY AND MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD FOR CERTAIN MILITARY RETIREES AND DEPENDENTS.

(a) MEDICARE PART B SPECIAL ENROLLMENT PERIOD; WAIVER OF PART B PENALTY FOR LATE ENROLLMENT.—

(1) IN GENERAL.—In the case of any eligible individual (as defined in subsection (c)), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.). Such period shall be for a period of 6 months and shall begin with the first month that begins at least 45 days after the date of enactment of this Act.

(2) COVERAGE PERIOD.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

(3) WAIVER OF PART B LATE ENROLLMENT PENALTY.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), there shall be no increase pursuant to section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) in the monthly premium under part B of title XVIII of such Act.

(b) MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD.—Notwithstanding any other provision of law, an issuer of a medicare supplemental policy (as defined in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss))—

(1) may not deny or condition the issuance or effectiveness of a medicare supplemental policy; and

(2) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability;

in the case of an eligible individual who seeks to enroll during the 6-month period described in subsection (a)(1).

(c) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term ''eligible individual'' means an individual—

(1) who, as of the date of the enactment of this Act, has attained 65 years of age and was eligible to enroll under part B of title XVIII of the Social Security Act, and

(2) who at the time the individual first satisfied paragraph (1) or (2) of section 1836 of the Social Security Act (42 U.S.C. 1395o)—

(A) was a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), and

(B) did not elect to enroll (or to be deemed enrolled) under section 1837 of the Social Security Act (42 U.S.C. 1395p) during the individual's initial enrollment period.

The Secretary of Health and Human Services shall consult with the Secretary of Defense in the identification of eligible individuals.

ROCKEFELLER (AND BINGAMAN) AMENDMENT NO. 21

Mr. ROCKEFELLER (for himself and Mr. BINGAMAN) proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, between the matter following line 5 and line 6, insert the following:

SEC. 305. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

For purposes of section 3002(3) of title 38, United States Code, the term ''program of education'' shall include the following:

(1) A preparatory course for a test that is required or utilized for admission to an institution of higher education.

(2) A preparatory course for test that is required or utilized for admission to a graduate school.

WARNER (AND ALLARD) AMENDMENT NO. 22

Mr. WARNER (for himself and Mr. ALLARD) proposed an amendment to the bill, S. 4, supra; as follows:

On page 21, line 19, insert ''2000,'' after ''JANUARY 1,''.

On page 21, line 23, strike out ''(1)''.

Beginning on page 22, in the table under the heading ''COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER'', strike out the superscript ''4'' each place it appears in the column under the heading ''Pay Grade''.

Beginning on page 27, line 25, strike out ''the Secretary of Health and Human Services'' and all that follows through ''Administration),'' on page 28, line 4.

HARKIN (AND BINGAMAN) AMENDMENT NO. 23

Mr. HARKIN (for himself and Mr. BINGAMAN) proposed an amendment to the bill, S. 4, supra; as follows:

On page 25, strike lines 10 through 15, and insert the following:

(b)(1), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance, as determined by the Secretary.

''(b) COVERED MEMBERS.—(1) A member referred to subsection (a) is an enlisted member in pay grade E–5 or below.

''(2) For the purposes of this section, a member shall be considered as being eligible to receive food stamp assistance if the household of the member meets the income standards of eligibility established under section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), not taking into account the special subsistence allowance that may be payable to the member under this section and any allowance that is payable to the member under section 403 or 404a of this title.

On page 28, between lines 8 and 9, insert the following:

SEC. 104. IMPLEMENTATION OF THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) CLARIFICATION OF BENEFITS RESPONSIBILITY.—Subsection (a) of section 1060a of title 10, United States Code, is amended by striking ''may carry out a program to provide special supplemental food benefits'' and inserting ''shall carry out a program to provide supplemental foods and nutrition education''.

(b) RELATIONSHIP TO WIC PROGRAM.—Subsection (b) of such section is amended to read as follows:

''(b) FEDERAL PAYMENTS.—For the purpose of providing supplemental foods under the program required under subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense for each of fiscal years 1999 through 2003, out of funds available for such fiscal year pursuant to the authorization of appropriations under section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)), $10,000,000 plus such additional amount as is necessary to provide supplemental foods under the program for such fiscal year. The Secretary of Defense shall use funds available for the Department of Defense to provide nutrition education and to pay for costs for nutrition services and administration under the program.''.

(c) PROGRAM ADMINISTRATION.—Subsection (c)(1)(A) of such section is amended by adding at the end the following: ''In the determining of eligibility for the program benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) shall be considered eligible for the duration of the certification period under that program.''.

(d) NUTRITIONAL RISK STANDARDS.—Subsection (c)(1)(B) of such section is amended by inserting ''and nutritional risk standards'' after ''income eligibility standards''.

(e) DEFINITIONS.—Subsection (f) of such section is amended by adding at the end the following:

''(4) The terms 'costs for nutrition services and administration', 'nutrition education' and 'supplemental foods' have the meanings given the terms in paragraphs (4), (7), and (14), respectively, of section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).''.

(f) REPORT.—Not later than March 1, 2001, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall submit to Congress a report on the implementation of the special supplemental food program required under section 1060a of title 10, United States Code. The report shall include a discussion of whether the amount required to be provided by the Secretary of Agriculture for supplemental foods under subsection (b) of that section is adequate for the purpose and, if not, an estimate of the amount necessary to provide supplemental foods under the program.

BINGAMAN AMENDMENT NO. 24

Mr. BINGAMAN proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. SENSE OF SENATE REGARDING PROCESSING OF CLAIMS FOR VETERANS' BENEFITS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Despite advances in technology, telecommunications, and training, the Department of Veterans Affairs currently requires 20 percent more time to process claims for veterans' benefits than the Department required to process such claims in 1997.

(2) The Department does not currently process claims for veterans' benefits in a timely manner.

(b) SENSE OF SENATE.—It is the sense of the Senate to urge the Secretary of Veterans Affairs to—

(1) review the program, policies, and procedures of the Veterans Benefits Administration of the Department of Veterans Affairs in order to identify areas in which the Administration does not currently process claims for veterans' benefits in a manner consistent with the objectives set forth in the National Performance Review (including objectives regarding timeliness of Executive branch activities); and

(2) initiate any actions necessary to ensure that the Administration processes claims for such benefits in a manner consistent with such objectives.

(3) report to the Congress by June 1, 1999 on measures taken to improve processing time for veterans' claims.

FEINGOLD AMENDMENT NO. 25

Ms. LANDRIEU (for Mr. FEINGOLD) proposed an amendment to the bill, S. 4, supra; as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. ENTITLEMENT OF RESERVES NOT ON ACTIVE DUTY TO RECEIVE SPECIAL DUTY ASSIGNMENT PAY.

(a) AUTHORITY.—Section 307(a) of title 37, United States Code, is amended by inserting after ''is entitled to basic pay'' in the first sentence the following: '', or is entitled to compensation under section 206 of this title in the case of a member of a reserve component not on active duty,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 26

Mr. ROCKEFELLER (for himself, Mr. WELLSTONE, Mr. KENNEDY, Mr. GRAMS, Mr. ASHCROFT, Mr. REID, Mr. KERRY, Mr. SPECTER, Mr. JEFFORDS, and Mr. DASCHLE) proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, after line 16, add the following:

SEC. ___. MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS

''SEC. 1897. (a) DEFINITIONS.—In this section:

''(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Veterans Affairs acting jointly.

''(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

''(3) DEMONSTRATION SITE.—The term 'demonstration site' means a Veterans Affairs medical facility, including a group of Veterans Affairs medical facilities that provide hospital care or medical services as part of a service network or similar organization.

''(4) MILITARY RETIREE.—The term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

''(5) TARGETED MEDICARE-ELIGIBLE VETERAN.—The term 'targeted medicare-eligible veteran' means an individual who—

''(A) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code;

''(B) has attained age 65;

''(C) is entitled to benefits under part A of this title; and

''(D)(i) is enrolled for benefits under part B of this title; and

''(ii) if such individual attained age 65 before the date of enactment of the Veterans' Equal Access to Medicare Act, was so enrolled on such date.

''(6) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

''(7) VETERANS AFFAIRS MEDICAL FACILITY.—The term 'Veterans Affairs medical facility' means a medical facility as defined in section 8101 of title 38, United States Code.

''(b) DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to certain targeted medicare-eligible veterans at a demonstration site.

''(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

''(i) a description of the benefits to be provided to the participants in the demonstration project established under this section;

''(ii) a description of the eligibility rules for participation in the demonstration project, including any terms and conditions established under subparagraph (C) and any cost-sharing required under subparagraph (D);

''(iii) a description of how the demonstration project will satisfy the requirements under this title (including beneficiary protections and quality assurance mechanisms);

''(iv) a description of the demonstration sites selected under paragraph (2);

''(v) a description of how reimbursement and maintenance of effort requirements under subsection (h) will be implemented in the demonstration project;

''(vi) a statement that the Secretary shall have access to all data of the Department of Veterans Affairs that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project;

''(vii) a description of any requirement that the Secretary waives pursuant to subsection (d); and

''(viii) a certification, provided after review by the administering Secretaries, that any entity that is receiving payments by reason of the demonstration project has sufficient—

''(I) resources and expertise to provide, consistent with payments under subsection (h), the full range of benefits required to be provided to beneficiaries under the project; and

''(II) information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner.

''(C) VOLUNTARY PARTICIPATION.—Participation of targeted medicare-eligible veterans in the demonstration project shall be voluntary, subject to the capacity of participating demonstration sites and the funding limitations specified in subsection (h), and shall be subject to such terms and conditions as the administering Secretaries may establish. In the case of a demonstration site described in paragraph (2)(C)(i), targeted medicare-eligible veterans who are military retirees shall be given preference for participating in the project conducted at that site.

''(D) COST-SHARING.—The Secretary of Veterans Affairs may establish cost-sharing requirements for veterans participating in the demonstration project. If such cost-sharing requirements are established, those requirements shall be the same as the requirements that apply to targeted medicare-eligible patients at medical centers that are not Veterans Affairs medical facilities.

''(E) DATA MATCH.—

''(i) ESTABLISHMENT OF DATA MATCHING PROGRAM.—The administering Secretaries shall establish a data matching program under which there is an exchange of information of the Department of Veterans Affairs and of the Department of Health and Human Services as is necessary to identify veterans (as defined in section 101(2) of title 38, United States Code) who are entitled to benefits under part A or enrolled under part B, or both, in order to carry out this section. The provisions of section 552a of title 5, United States Code, shall apply with respect to such matching program only to the extent the administering Secretaries find it feasible and appropriate in carrying out this section in a timely and efficient manner.

''(ii) PERFORMANCE OF DATA MATCH.—The administering Secretaries, using the data matching program established under clause (i), shall perform a comparison in order to identify veterans who are entitled to benefits under part A or enrolled under part B, or both. To the extent such Secretaries deem appropriate to carry out this section, the comparison and identification may distinguish among such veterans by category of veterans, by entitlement to benefits under this title, or by other characteristics.

''(iii) DEADLINE FOR FIRST DATA MATCH.—Not later than October 31, 1999, the administering Secretaries shall first perform a comparison under clause (ii).

''(iv) CERTIFICATION BY INSPECTOR GENERAL.—

''(I) IN GENERAL.—The administering Secretaries may not conduct the program unless the Inspector General of the Department of Health and Human Services certifies to Congress that the administering Secretaries have established the data matching program under clause (i) and have performed a comparison under clause (ii).

''(II) DEADLINE FOR CERTIFICATION.—Not later than December 15, 1999, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the certification under subclause (I) or the denial of such certification.

''(2) NUMBER OF DEMONSTRATION SITES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and subsection (g)(1)(D)(ii), the administering Secretaries shall establish a plan for the selection of up to 10 demonstration sites located in geographically dispersed locations to participate in the project.

''(B) CRITERIA.—The administering Secretaries shall favor selection of those demonstration sites that consideration of the following factors indicate are suited to serve targeted medicare-eligible veterans:

''(i) There is a high potential demand by targeted medicare-eligible veterans for the services to be provided at the demonstration site.

''(ii) The demonstration site has sufficient capability in billing and accounting to participate in the project.

''(iii) The demonstration site can demonstrate favorable indicators of quality of care, including patient satisfaction.

''(iv) The demonstration site delivers a range of services required by targeted medicare-eligible veterans.

''(v) The demonstration site meets other relevant factors identified in the plan.

''(C) REQUIRED DEMONSTRATION SITES.—At least 1 of each of the following demonstration sites shall be selected for inclusion in the demonstration project:

''(i) DEMONSTRATION SITE NEAR CLOSED BASE.—A demonstration site that is in the same catchment area as a military treatment facility referred to in section 1074(a) of title 10, United States Code, which was closed pursuant to either—

''(I) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); or

''(II) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

''(ii) DEMONSTRATION SITE IN A RURAL AREA.—A demonstration site that serves a predominantly rural population.

''(3) RESTRICTION.—No new buildings may be built or existing buildings expanded with funds from the demonstration project.

''(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 2000.

''(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the demonstration project shall be credited to the applicable Department of Veterans Affairs medical appropriation and (within that appropriation) to funds that have been allotted to the demonstration site that furnished the services for which the payment is made. Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

''(d) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title.

''(2) BENEFICIARY PROTECTIONS FOR MANAGED CARE PLANS.—In the case of a managed care plan established by the Secretary of Veterans Affairs pursuant to subsection (g), such plan shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas:

''(A) Enrollment and disenrollment.

''(B) Nondiscrimination.

''(C) Information provided to beneficiaries.

''(D) Cost-sharing limitations.

''(E) Appeal and grievance procedures.

''(F) Provider participation.

''(G) Access to services.

''(H) Quality assurance and external review.

''(I) Advance directives.

''(J) Other areas of beneficiary protections that the Secretary determines are applicable to such project.

''(3) DESCRIPTION OF WAIVER.—If the Secretary waives any requirement pursuant to paragraph (1), the Secretary shall include a description of such waiver in the agreement described in subsection (b)(1)(B).

''(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

''(f) REPORT.—At least 60 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

''(g) MANAGED HEALTH CARE.—

''(1) MANAGED HEALTH CARE PLANS.—

''(A) IN GENERAL.—The Secretary of Veterans Affairs may establish and operate managed health care plans at demonstration sites.

''(B) REQUIREMENTS.—Any managed health care plan established in accordance with subparagraph (A) shall be operated by or through a Veterans Affairs medical facility, or a group of Veterans Affairs medical facilities, and may include the provision of health

care services by public and private entities under arrangements made between the Department of Veterans Affairs and the other public or private entity concerned. Any such managed health care plan shall be established and operated in conformance with standards prescribed by the administering Secretaries.

''(C) MINIMUM BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under a managed health care plan to veterans enrolled in the plan, which benefits shall include at least all health care services covered under the medicare program under this title.

''(D) INCLUSION IN NUMBER OF DEMONSTRATION SITES.—

''(i) IN GENERAL.—Subject to clause (ii), if the Secretary of Veterans Affairs elects to establish a managed health care plan under this section, the establishment of such plan is a selected demonstration site for purposes of applying the numerical limitation under subsection (b)(2).

''(ii) LIMITATION.—The Secretary of Veterans Affairs shall not establish more than 4 managed health care plans under this section.

''(2) DEMONSTRATION SITE REQUIREMENTS.—The Secretary of Veterans Affairs may establish a managed health care plan under paragraph (1) using 1 or more demonstration sites and other public or private entities only after the Secretary of Veterans Affairs submits to Congress a report setting forth a plan for the use of such sites and entities. The plan may not be implemented until the Secretary of Veterans Affairs has received from the Inspector General of the Department of Veterans Affairs, and has forwarded to Congress, certification of each of the following:

''(A) The cost accounting system of the Veterans Health Administration (currently known as the Decision Support System) is operational and is providing reliable cost information on care delivered on an inpatient and outpatient basis at such sites and entities.

''(B) The demonstration sites and entities have developed a credible plan (on the basis of market surveys, data from the Decision Support System, actuarial analysis, or other appropriate methods and taking into account the level of payment under subsection (h) and the costs of providing covered services at the sites and entities) to minimize, to the extent feasible, the risk that appropriated funds allocated to the sites and entities will be required to meet the obligation of the sites and entities to targeted medicare-eligible veterans under the demonstration project.

''(C) The demonstration sites and entities collectively have available capacity to provide the contracted benefits package to a sufficient number of targeted medicare-eligible veterans.

''(D) The Veterans Affairs medical facility administering the health plan has sufficient systems and safeguards in place to minimize any risk that instituting the managed care model will result in reducing the quality of care delivered to participants in the demonstration project or to other veterans receiving care under paragraph (1) or (2) of section 1710(a) of title 38, United States Code.

''(3) RESERVES.—The Secretary of Veterans Affairs shall maintain such reserves as may be necessary to ensure against the risk that appropriated funds, allocated to demonstration sites and public or private entities participating in the demonstration project through a managed health care plan under this section, will be required to meet the obligations of those sites and entities to targeted medicare-eligible veterans.

''(h) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

''(1) PAYMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Veterans Affairs for services provided under the demonstration project at the following rates:

''(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the demonstration site was not part of this demonstration project, was participating in the medicare program, and imposed charges for such services.

''(ii) CAPITATION.—Subject to subparagraphs (B) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (g), at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C with respect to such an enrollee.

''(iii) OTHER CASES.—In cases in which a payment amount may not otherwise be readily computed under clauses (i) or (ii), the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

''(B) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under subparagraph (A), the following shall be excluded:

''(i) DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT.—Any amount attributable to an adjustment under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)).

''(ii) DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.—Any amount attributable to a payment under subsection (h) of such section.

''(iii) PERCENTAGE OF INDIRECT MEDICAL EDUCATION ADJUSTMENT.—40 percent of any amount attributable to the adjustment under subsection (d)(5)(B) of such section.

''(iv) PERCENTAGE OF CAPITAL PAYMENTS.—67 percent of any amounts attributable to payments for capital-related costs under subsection (g) of such section.

''(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

''(i) on a periodic basis consistent with the periodicity of payments under this title; and

''(ii) in appropriate part, as determined by the Secretary, from the trust funds.

''(D) ANNUAL LIMIT ON MEDICARE PAYMENTS.—The amount paid to the Department of Veterans Affairs under this subsection for any year for the demonstration project may not exceed $50,000,000.

''(2) REDUCTION IN PAYMENT FOR VA FAILURE TO MAINTAIN EFFORT.—

''(A) IN GENERAL.—To avoid shifting onto the medicare program under this title costs previously assumed by the Department of Veterans Affairs for the provision of medicare-covered services to targeted medicare-eligible veterans, the payment amount under this subsection for the project for a fiscal year shall be reduced by the amount (if any) by which—

''(i) the amount of the VA effort level for targeted veterans (as defined in subparagraph (B)) for the fiscal year ending in such year, is less than

''(ii) the amount of the VA effort level for targeted veterans for fiscal year 1998.

''(B) VA EFFORT LEVEL FOR TARGETED VETERANS DEFINED.—For purposes of subparagraph (A), the term 'VA effort level for targeted veterans' means, for a fiscal year, the amount, as estimated by the administering Secretaries, that would have been expended under the medicare program under this title for VA-provided medicare-covered services for targeted veterans (as defined in subparagraph (C)) for that fiscal year if benefits were available under the medicare program for those services. Such amount does not include expenditures attributable to services for which reimbursement is made under the demonstration project.

''(C) VA-PROVIDED MEDICARE-COVERED SERVICES FOR TARGETED VETERANS.—For purposes of subparagraph (B), the term 'VA-provided medicare-covered services for targeted veterans' means, for a fiscal year, items and services—

''(i) that are provided during the fiscal year by the Department of Veterans Affairs to targeted medicare-eligible veterans;

''(ii) that constitute hospital care and medical services under chapter 17 of title 38, United States Code; and

''(iii) for which benefits would be available under the medicare program under this title if they were provided other than by a Federal provider of services that does not charge for those services.

''(3) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

''(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

''(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans during the period of the demonstration project compared to the expenditures that would have been made for such veterans during that period if the demonstration project had not been conducted.

''(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

''(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

''(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

''(I) to recoup for the medicare program the amount of such increase in expenditures; and

''(II) to prevent any such increase in the future.

''(ii) STEPS.—Such steps—

''(I) under clause (i)(I), shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation of the Department of Veterans Affairs to the trust funds; and

''(II) under clause (i)(II), shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

''(i) EVALUATION AND REPORTS.—

''(1) INDEPENDENT EVALUATION.—

''(A) IN GENERAL.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health care services to conduct an evaluation of the demonstration project.

''(B) CONTENTS.—The evaluation conducted under subparagraph (A) shall include an assessment, based on the agreement entered into under subsection (b), of the following:

''(i) The cost to the Department of Veterans Affairs of providing care to veterans under the project.

''(ii) Compliance of participating demonstration sites with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers that are not Veterans Affairs medical facilities.

''(iii) A comparison of the costs of participation of the demonstration sites in the program with the reimbursements provided for services of such sites.

''(iv) Any savings or costs to the medicare program under this title from the project.

''(v) Any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project.

''(vi) Any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project.

''(vii) The provision of services under managed health care plans under subsection (g), including the circumstances (if any) under which the Secretary of Veterans Affairs uses reserves described in paragraph (3) of such subsection and the Secretary of Veterans Affairs' response to such circumstances (including the termination of managed health care plans requiring the use of such reserves).

''(viii) Any effect that the demonstration project has on the enrollment in Medicare+Choice plans offered by Medicare+Choice organizations under part C of this title in the established site areas.

''(ix) Any additional elements that the independent entity determines is appropriate to assess regarding the demonstration project.

''(C) ANNUAL REPORTS.—The independent entity conducting the evaluation under subparagraph (A) shall submit reports on such evaluation to the administering Secretaries and to the committees of jurisdiction in the Congress as follows:

''(i) INITIAL REPORT.—The entity shall submit the initial report not later than 12 months after the date on which the demonstration project begins operation.

''(ii) SECOND ANNUAL REPORT.—The entity shall submit the second annual report not later than 30 months after the date on which the demonstration project begins operation.

''(iii) FINAL REPORT.—The entity shall submit the final report not later than 3½ years after the date on which the demonstration project begins operation.

''(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than 3½ years after the date on which the demonstration project begins operation, the administering Secretaries shall submit to Congress a report containing—

''(A) their recommendation as to—

''(i) whether to extend the demonstration project or make the project permanent;

''(ii) whether to expand the project to cover additional demonstration sites and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

''(iii) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded; and

''(B) a detailed description of any costs associated with their recommendation made pursuant to clauses (i) and (ii) of subparagraph (A).''.

WELLSTONE AMENDMENT NO. 27

Mr. WELLSTONE proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) of title 38, United States Code, is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Bone cancer.

''(R) Skin cancer.

''(S) Colon cancer.

''(T) Posterior subcapsular cataracts.

''(U) Non-malignant thyroid nodular disease.

''(V) Ovarian cancer.

''(W) Parathyroid adenoma.

''(X) Tumors of the brain and central nervous system.

''(Y) Rectal cancer.''.

COVERDELL (AND MCCAIN) AMENDMENT NO. 28

Mr. WARNER (for Mr. COVERDELL for himself, Mr. MCCAIN, and Mr. LEVIN) proposed an amendment to the bill, S. 4, supra; as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. SENSE OF THE SENATE REGARDING USE OF EXTENSION OF TIME TO FILE TAX RETURNS FOR MEMBERS OF UNIFORMED SERVICES ON DUTY ABROAD.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Service provides a 2-month extension of the deadline for filing tax returns for members of the uniformed services who are in an area outside the United States or the Commonwealth of Puerto Rico for a tour of duty which includes the date for filing tax returns;

(2) any taxpayer using this 2-month extension who owes additional tax must pay the tax on or before the regular filing deadline;

(3) those who use the 2-month extension and wait to pay the additional tax at the time of filing are charged interest from the regular filing deadline, and may also be required to pay a penalty; and

(4) it is fundamentally unfair to members of the uniformed services who make use of this extension to require them to pay penalties and interest on the additional tax owed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the 2-month extension of the deadline for filing tax returns for certain members of the uniformed services provided in Internal Revenue Service regulations should be codified; and

(2) eligible members of the uniformed services should be able to make use of the extension without accumulating interest or penalties.

GRAHAM AMENDMENT NO. 29

Mr. GRAHAM proposed an amendment to the bill, S. 4, supra; as follows:

At the end add the following:

TITLE V—REVENUES

SEC. 501. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after June 30, 1999.''

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after June 30, 1999.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after June 30, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on July 1, 1999.

SEC. 502. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. 503. EXTENSION OF OIL SPILL LIABILITY TAXES.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking ''after December 31, 1989, and before January 1, 1995'' and inserting ''after the date of the enactment of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 and before October 1, 2008''.

(b) INCREASE IN UNOBLIGATED BALANCE WHICH ENDS TAX.—Section 4611(f)(2) (relating to no tax if unobligated balance in fund exceeds $1,000,000,000) is amended by striking ''$1,000,000,000'' each place it appears in the text and heading thereof and inserting ''$5,000,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, February 24, 1999. The purpose of this meeting will be for oversight of the U.S. Department of Agriculture.

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

COMMITTEE ON ARMED SERVICES

Mr. WARNER. Mr. President, I ask unanimous consent that the Strategic Subcommittee of the Committee on Armed Services be authorized to meet on Wednesday, February 24, 1999, at 2:00 p.m. in open session, to receive testimony on National Missile Defense Programs and Policies, in Review of the Defense Authorization Request for Fiscal Year 2000 and the Future Years Defense Program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 24, 1999, to conduct a hearing on financial services legislation.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Wednesday, February 24, 1999, at 2:30 p.m. on Coast Guard budget.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WARNER. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Carol M. Browner, Administrator, Environmental Protection Agency, on the proposed FY 2000 EPA budget Wednesday, February 24, 9:00 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, February 24, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 24, 1999 at 11:00 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, February 24, 1999, at 10:00 a.m. for a hearing on the Independent Counsel Act.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Privacy Under a Microscope: Balancing the Needs of Research and Confidentiality during the session of the Senate on Wednesday, February 24, 1999, at 9:30 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, February 24, 1999, at 9:30 a.m. to conduct a Hearing on the President's Budget Request for FY 2000 for Indian programs. The hearing will be held in room 485 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 24, 1999, at 11:00 a.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct the afternoon session of a joint hearing with the Armed Services Subcommittee on Readiness on potential year 2000 issues Wednesday, February 24, 2:15 p.m., Hart Hearing Facility (SH–216).

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Wednesday, February 24, 1999 at 2:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 24, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this oversight hearing is to consider the President's proposed budget for FY2000 for National Park Service programs and operations.

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

SUBCOMMITTEE ON PERSONNEL

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet on Wednesday, February 24, 1999, at 2:00 p.m. in open session, to receive testimony on Recruiting and Retention Policies within the Department of Defense and the Military Services in Review of the Defense Authorization Request for Fiscal Year 2000 and the Future Years Defense Programs.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, February 24, 1999, in open session, to review the National Security Ramifications of the Year 2000 Computer Problem.

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

ADDITIONAL STATEMENTS

TRIBUTE TO A TRUE AMERICAN HERO: MR. EDGAR NOLLNER

• Mr. MURKOWSKI. Mr. President, I rise today to pay tribute to Mr. Edgar Nollner Sr., a distinguished Alaskan and notable American hero who passed away recently at his home in Galena, Alaska at the age of 94.

While Edgar Nollner is not a household name, many Americans may recall his heroic story of courage, teamwork and selflessness.

In the winter of 1925, the Gold Rush town of Nome, Alaska was in the midst of a deadly diphtheria epidemic. Several cases of the contagious, bacterial disease had struck the small predominately Native population, some 1,400 of the towns residents.

On January 21, an emergency Morse code message was transmitted from Nome pleading for a supply of diphtheria antitoxin serum. Twenty pounds of serum was found at an Anchorage hospital, but territorial governor Scot Bone would not risk flying the precious viles of serum from Anchorage to Fairbanks due to hazardous weather conditions. In fact, it is noted that the governor said he was willing to let the pilots risk their lives, but he would not risk the serum. Officials then determined that the serum would be shipped to Nenana via railroad; the serum arrived in the interior Alaska town six days after the initial plea was sent. It was from Nenana that the infamous 674 mile Serum Run Relay began, a race not for glory or riches, but a race to save the residents of Nome.

Nome typically received most of its winter supplies by dog sled with deliveries taking a single musher 15 to 20 days to make a trip. Instead of a solo run, 20 dog-sled mushers, including Edgar Nollner, prepared to tackle the 70 degree below zero temperatures, frozen tundra and gale-force winds blowing up to 75 miles and hour. The mushers and dog teams were thus divided into shorter sprint segments to quicken the trip.

Edgar Nollner was scheduled to run the 10th leg of the relay, 42 miles, but his younger brother, George, begged him to let him drive the last 18 miles of his leg. Edgar ran at night, covering the 24 miles from Whiskey Point to Galena in 3 hours. He reported that winds were so fierce, causing so much blowing snow, that he could not see his dogs

or anything around him. His lead sled dog and trusted friend, Dixie, knew the trail and never faltered.

The frozen serum arrived safely in Nome on February 2, 1925, in a mere 5 days and 7 hours; the epidemic was soon over. The brave men and scores of dogs were all hailed heroes. But for all the acclaim it received, the serum run marked the end of an era. With the increase of better airplanes, better schedules, and the insurgence of snow machines, the need for dog sleds was no longer essential. If the fear of diphtheria now seems antiquated, it is only because the Serum Run brought an end to the disease as a serious health threat in the United States.

Edgar Nollner was just 20 years old when he left his trapper and fisherman lifestyle to selflessly join the others on the Serun Run. He was the son of a Missouri man who came to Alaska for the 1890's Gold Rush, and an Athabaskan mother, who made their home along the Yukon River in Galena. As the last surviving member of the serum-run relay mushers who risked their lives so that others may live, Edgar Nollner was truly a twentieth century hero.

The townspeople in Galena are mourning Edgar's passing but his legacy remains. Records show that Mr. Nollner married twice, fathered 24 children and has more than 200 grandchildren and great grandchildren. Mr. President, I believe there can be no greater gift.

To honor these brave men, the famous Serum Run Relay was reenacted in 1973, in an event know known as the Iditarod Trail Sled Dog Race. The modern-day Iditarod covers more than 1,000 miles of frozen tundra from Anchorage to Nome and is now run annually in March.

Edgar Nollner was both a hero and legend. I salute this rugged Alaskan who risked his life so that others could live—he epitomizes the true spirit of all Alaskans. His spirit, along with the 19 other brave Serum Run mushers will continue to run strong in every Iditarod. The final chapter of this dramatic saga is closed, but not forgotten.●

PROHIBITION OF THE IMPLEMENTATION OF THE ''KNOW YOUR CUSTOMER'' REGULATIONS

● Mr. BROWNBACK. Mr. President, I wish to make a few remarks in support of Senator ALLARD's bill that would prohibit the implementation of the ''Know Your Customer'' (KYC) regulations by the four federal banking agencies (Office of Comptroller of the Currency, Office of Thrift Supervision, the Federal Reserve, and the Federal Deposit Insurance Corporation). As a cosponsor of this legislation, I am concerned that this proposal would bring a regulatory imbalance to banks and their competitors, increase regulatory burdens on the banking industry and potentially violate the privacy of consumers. Once again the federal government has prescribed regulations that are costly to businesses and intrusive to citizens.

These regulations would put the banking industry at a disadvantage with their nonbank financial service competitors because many of them are not required to develop and maintain ''Know Your Customer'' programs under the proposal. Many bank customers would correctly view this as an intrusion of their privacy and might elect to conduct their banking business at other financial institutions.

Current criminal reporting requirements already mandate that financial institutions report violations of federal law to the Treasury Department after uncovering potential money laundering, insider abuse, or any violation of federal law. Ironically, under the proposed regulations by the federal banking agencies, a financial institution would not be required to report a violation after it has occurred. The proposed regulations create more burdensome and invasive regulations by requiring banks to investigate all customers activity to see if any violation of federal law has taken place, not just those suspected of criminal activity. This could be time consuming and extremely costly for banks.

The proposed regulations have generated many concerns from both consumers and the banking industry. A proposal that requires bankers to analyze all customer transactions would violate the public's trust and confidence in the banking industry. The financial service sector has been very effective in reporting possible violations of the law, while at the same time protecting customer information. The proposed regulations do little to increase the ability to curtail illegal activity and would severely harm America's financial institutions and the customers they serve. I encourage the four federal banking agencies to reconsider their proposed regulations and withdraw them.●

ELECTRIC UTILITY RESTRUCTURING

● Mr. KERREY. Mr. President, last year, Senator GORTON and I introduced a bill that addressed a growing problem faced by local governments in the new era of state electric utility restructuring. That bill had the bipartisan cosponsorship of almost a dozen Senators.

On February 6, we reintroduced this legislation as the Bond Fairness and Protection Act. This bill will ensure Nebraskans continue to benefit from the publicly-owned power they currently receive. Nebraska has 154 not-for-profit community-based public power systems. It is the only state which relies entirely on public power for electricity. This system has served my state well as Nebraskans enjoy some of the lowest rates in the nation.

Approximately 18 states have already moved toward permitting new competition in the electric industry. However, the federal tax rules governing municipal bond financing did not anticipate the new era of electric utility restructuring when they were crafted more than a decade ago. If Congress does not act, public power systems that open their transmission lines to privately owned utilities can jeopardize the status of their outstanding tax-exempt bonds. The legislation my colleagues and I introduced is an equitable solution to the problem.

Under this legislation, local governments determine how their future municipal power debt will be treated. According to the US Department of Energy, my own state had over $2.2 billion in outstanding municipal power bond debt in 1996. Our bill protects local governments that issued public power bond debt in the past, yet gives them the flexibility to issue new, but fully taxable debt if they choose to build any new power generation facilities in the future.

Specifically, our legislation provides them with an option: they may either choose to operate under current, so called ''private use'' rules in our tax code. Or if they prefer, they can choose to make a one-time irrevocable election that will allow them to build new power generation facilities if they want, but only using fully taxable bonds instead of tax-exempt financing.

It is important we recognize and respect local governments may face unique situations in public power financing issues as the electricity market changes, and we give them reasonable and fair choices.

Congress may or may not choose to move forward this year on the larger and more complex issues involved in restructuring the electricity marketplace. But I feel we must act to solve this special problem this year. Our local governments should not face unfair retroactive bond taxation triggered by old federal tax rules in conflict with the new state-mandated laws or regulations.

This legislation weighs the interests of local governments, bondholders, consumers, and public and private utilities. It will enable Nebraska public power systems to make decisions in the best interests of their consumers and protect the reliable, affordable electric service that Nebraska currently enjoys.●

TRIBUTE TO UNIVERSITY OF TENNESSEE'S CHAMIQUE HOLDSCLAW

● Mr. THOMPSON. Mr. President, I rise today to honor and recognize an outstanding University of Tennessee Lady Volunteers basketball player, senior Chamique Holdsclaw.

Last week, Chamique Holdsclaw was recognized as the outstanding amateur athlete in the nation when she was awarded the 1998 James E. Sullivan Memorial Award. Chamique is the first female basketball player—and only the

third basketball player, male or female—to win the award in its 69-year history.

It comes as no surprise to those of us from Tennessee that Chamique, the second University of Tennessee athlete in two years to take the honor, follows former Volunteer quarterback Peyton Manning. Other winners of this prestigious award include Bill Walton, Bill Bradley, Bonnie Blair, Florence Griffith-Joyner and Bruce Jenner.

Mr. President, Chamique Holdsclaw is one of the finest college basketball players in America, who time after time has displayed grace under pressure, sinking last-minute, game-winning shots. She has led both her high school and college teams to national basketball championships. And of course we all remember last year when she led the Lady Volunteers to a 39–0 record and a third straight national title. Chamique has Tennessee on track for a fourth straight title this season.

To measure the impact this Tennessee senior has had on women's sports over the past four years, you did not have to look any farther than across from the Lady Vols bench last week, where former Sullivan winner Jackie Joyner-Kersee sat. After meeting Chamique at an awards ceremony two weeks ago, Joyner-Kersee was so impressed that she flew in from St. Louis for Chamique's final regular-season home game, in which she scored 25 points and pulled down 11 rebounds.

Regardless of what greatness Chamique Holdsclaw achieves in her pro career, her time at Tennessee has clearly changed the game. Though plenty of women's college basketball legends came before her, Chamique became her sport's first national superstar. She took hold of that spotlight, thrived under the pressure it brought with it, and made history.

Mr. President, the Sullivan Award recognizes athletes who have excelled in competition while exhibiting leadership, character and sportsmanship. Chamique Holdsclaw embodies each of these qualities and is the kind of person we should encourage all our young people to emulate. Her determination and dedication to excellence remind us that we each have the power to make a positive difference.●

TRIBUTE TO JOUSHUA HEWITT AND DANA WALSH

● Mr. SCHUMER. Mr. President, I am pleased to have the opportunity today to recognize two young students from my state who have achieved national recognition for exemplary volunteer service in their communities. Joushua Hewitt of Perry, NY, and Dana Walsh of Oceanside, NY, have been named State Honorees in the 1999 Prudential Spirit of Community Awards program. Each year this program honors students who have demonstrated outstanding community service.

These two fine students have given back to their communities in many ways. Mr. Hewitt is being recognized for his efforts in staging a simulated traffic accident to graphically demonstrate the horrors of drunk driving to his classmates. Ms. Walsh is being recognized for coordinating a fund-raising drive at her school, which raised $3,000 for the Cystic Fibrosis Foundation. These two students are excellent examples of young adults who are working hard to make their communities better and they deserve to be honored.

Mr. Hewitt and Ms. Walsh should be extremely proud to have been singled out from a group of dedicated volunteers from across the country. As part of their recognition, they will come here to the Capitol in May for several days of special events, including a Congressional breakfast reception. While in Washington, 10 of the 1999 Spirit of Community honorees will be selected as America's top youth volunteers. I commend all of those who have been nominated.

It is my honor to congratulate these young people who have demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world. They deserve our sincere admiration and respect. Their actions show that young Americans can—and do—play important roles in their communities, and that America's community spirit continues to hold tremendous promise for the future.●

EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

● Mr. DODD. Mr. President, I ask that a statement I submitted to the Committee on Health, Education, Labor, and Pensions on the committee's markup of S. 280, the Education Flexibility Partnership Act of 1999, be printed in the RECORD.

The statement follows:

Mr. Chairman, improving our nation's schools is clearly a crucial task and one deserving of the committee's time and attention. However, I regret that the committee has chosen to proceed with the consideration of Senator Frist's Ed Flex bill today, just a scant hour after two of this century's most important Senate votes.

The Senate is currently engaged in the conduct of our most serious constitutional duty—the impeachment trial of the President. Rightfully, this undertaking has engaged all of our time and energy. Beyond our required attendance on the Senate floor, we have also each been engaged in party conferences, smaller group discussions with our colleagues and other meetings crucial to the Senate's consideration. Today, in particular, was a crucial moment in this proceeding, with two historic votes on continuing the trial. These votes necessitated further discussions and meetings in search of a consensus on how to proceed.

And yet, in the midst of this turmoil, the committee chose to go forward with this mark up. I believe this step was both inappropriate and unwise. Education and the other issues before our committee are too important to move forward without our full attention and involvement. We need the opportunity to thoughtfully examine Ed Flex and other proposals, consider changes and discuss these issues with each other and our staffs. Without this level of involvement, the chances for moving strong, bipartisan legislation with any hope of passage diminish significantly.

I recognize that putting these matters aside until the impeachment trial is a settled matter is particularly difficult when discussing education. We all care a great deal about education and improving our schools. And we all know, contrary to what we have all been doing since we got here in January, education is the work we were sent here to do by our constituents.

In addition, the measure before the committee today, the Education Flexibility Partnership bill, is one that we all spent a great deal of time on last year. I personally offered three amendments and worked cooperatively and extensively with Senator Frist to improve the underlying language of the bill throughout the committee's consideration. Ultimately, I voted for the bill, but had significant reservations, which I expressed in my additional views to the committee report.

Unfortunately, nothing in these intervening months has happened to allay my concerns. We have had no hearing on this demonstration program or this bill. There continues to be basically no data on gains in student achievement—the central goal of the Ed Flex program. We continue to consider this legislation outside of the context of the Elementary and Secondary Education Act, where it rightly belongs. We have had two GAO reports raising fundamental issues about the Ed Flex program. We have yet to consider other significant proposals for reform in our schools. And, yet, in moving forward today, the committee is clearly intent on proceeding without addressing or considering these concerns.

Mr. Chairman. I remain convinced that you and Senator Frist are committed to working in a bipartisan fashion on this bill and in developing strong education policy generally. It is clear this is only path by which we can get things done. But bipartisanship is hard work that demands substantive engagement by members. In my view, there was clearly not the time or opportunity to do so, today, with the Senate so rightfully occupied with impeachment.

I look forward to the days, hopefully in the near future, where we can turn our full attention to this bill and our committee's full agenda.●

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

● Mr. HELMS. Mr. President, pursuant to the requirements of paragraph 2 of Senate Rule XXVI, I ask to have printed in the RECORD the rules of the Committee on Foreign Relations for the 106th Congress adopted by the Committee on February 12, 1999.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted February 12, 1999)

RULE 1—JURISDICTION

(a) SUBSTANTIVE.—In accordance with Senate Rule XXV.1(j)(1), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.

5. Foreign loans.

6. International activities of the American National Red Cross and the International Committee of the Red Cross.

7. International aspects of nuclear energy, including nuclear transfer policy.

8. International conferences and congresses.

9. International law as it relates to foreign policy.

10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).

11. Intervention abroad and declarations of war.

12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

13. National security and international aspects of trusteeships of the United States.

14. Ocean and international environmental and scientific affairs as they relate to foreign policy.

15. Protection of United States citizens abroad and expatriation.

16. Relations of the United States with foreign nations generally.

17. Treaties and executive agreements, except reciprocal trade agreements.

18. United Nations and its affiliated organizations.

19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j)(2) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) OVERSIGHT.—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ''. . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee.''

(c) ''ADVICE AND CONSENT'' CLAUSES.—The Committee has a special responsibility to assist the Senate in its constitutional function of providing ''advice and consent'' to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) CREATION.—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) ASSIGNMENTS.—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than four subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote, of each subcommittee.

(c) MEETINGS.—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) REGULAR MEETING DAY.—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) ADDITIONAL MEETINGS.—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) MINORITY REQUEST.—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) PUBLIC ANNOUNCEMENT.—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) PROCEDURE.—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) CLOSED SESSIONS.—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement.

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) STAFF ATTENDANCE.—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for

Committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings shall be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) TESTIMONY.—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) BUSINESS.—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

(c) REPORTING.—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) GENERAL.—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

(b) PRESENTATION.—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) FILING OF STATEMENTS.—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) EXPENSES.—Only the Chairman may authorize expenditures for funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) REQUESTS.—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) AUTHORIZATION.—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) RETURN.—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) DEPOSITIONS.—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) FILING.—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) SUPPLEMENTAL, MINORITY AND ADDITIONAL VIEWS.—A member of the Committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee, with the 3 days to begin at 11:00 p.m. on the same day that the Committee has ordered a measure or matter reported. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such laws.

(c) ROLLCALL VOTES.—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress ''shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon.''

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except as extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) WAITING REQUIREMENT.—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) PUBLIC CONSIDERATION.—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) REQUIRED DATA.—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a financial disclosure report and a confidential statement with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) FOREIGN TRAVEL.—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel. Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee. When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) DOMESTIC TRAVEL.—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) PERSONAL STAFF.—As a general rule, no more than one member of the personal staff

of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

(d) PERSONAL REPRESENTATIVES OF THE MEMBER (PRM).—For the purposes of Rule 11 as regards staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties, and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each Member of the Committee may designate one personal staff member as the ''Personal Representative of the Member.''

RULE 12—TRANSCRIPTS

(a) GENERAL.—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) CLASSIFIED OR RESTRICTED TRANSCRIPTS.—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clerances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) DECLASSIFICATION.—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member of former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as ''Top Secret'' shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified ''Top Secret,'' after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a ''need to know'' such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) RESPONSIBILITIES.—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) RESTRICTIONS.—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) STATUS.—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) AMENDMENT.—These Rules may be modified, amended, or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the following Senators as members of the United States Senate Caucus on International Narcotics Control:

The Senator from Iowa (Mr. GRASSLEY), Chairman;

The Senator from Ohio (Mr. DEWINE); The Senator from Michigan (Mr. ABRAHAM); and

The Senator from Alabama (Mr. SESSIONS).

ORDER FOR STAR PRINT—S. RES. 45

Mr. WARNER. Mr. President, on behalf of Senator HUTCHINSON, I ask unanimous consent that S. Res. 45 be star printed with the changes which are at the desk.

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

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF DAVID WILLIAMS

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the Governmental Affairs Committee be allowed to continue consideration until March 17 of the nomination of David Williams to be inspector general for tax administration. I further ask consent that if the nomination is not reported by March 17, that the nomination be automatically discharged and placed on the Calendar.

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

ORDER FOR SEQUENTIAL REFERRAL—ROSE EILENE GOTTEMOELLER

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that when the Energy Committee reports the nomination of Rose Eilene Gottemoeller to be Assistant Secretary of Energy for Nonproliferation and National Security, the nomination be sequentially referred to the Armed Services Committee for a period not to exceed 30 days. I further ask consent that if the committee has not reported the nomination at the end of this period, the nomination be automatically discharged and placed on the Calendar.

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

ORDERS FOR THURSDAY, FEBRUARY 25, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Thursday, February 25. I further ask consent that on Thursday, immediately following the prayer, the Journal of Proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then begin consideration of S. Res. 45 regarding human rights in China, under the provisions of the consent agreement reached earlier today.

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

Mr. WARNER. I further ask consent that following the vote on adoption of S. Res. 45, the Senate begin a period of morning business with Senators permitted to speak up to 5 minutes each, with the following exceptions:

Senator COVERDELL or his designee in control of the first 45 minutes; Senator VOINOVICH, 10 minutes; Senator HUTCHINSON, 10 minutes; Senator DURBIN or designee, 60 minutes.

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

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will reconvene tomorrow at 11 a.m. and begin consideration of S. Res. 45, regarding human rights violations in China. Under the previous order, there will be 1 hour for debate on the resolution to be followed by a vote on adoption. That 1 hour is to be equally divided, Mr. President. After that vote, which is expected at approximately 12 noon, the Senate will begin a period of morning business to allow Senators to make statements and introduce legislation.

AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE FOR THE PERIOD MARCH 1, 1999, THROUGH SEPTEMBER 30, 1999

Mr. WARNER. Mr. President, there is another item just handed me, S. Res. 49. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 49, submitted by Senators MCCONNELL and DODD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 49) authorizing expenditures by committees of the Senate for the period March 1, 1999 through September 30, 1999.

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. MCCONNELL. Mr. President, since 1989 the Rules Committee has reported out biennial funding authorizations for committees of the Senate for the two funding periods beginning on March 1. This policy has been strongly supported by the Senate's committee chairmen and ranking members. Before the Senate today is a resolution which authorizes committee expenditures for the remaining seven months of Fiscal Year 1999 at the 1998 salary baseline plus the January 1999 cost of living adjustment (COLA) of 3.1%, as authorized by the President pro tempore. Committees had been previously authorized from October 1st through February 28th by S. Res. 54, in the 105th Congress.

This resolution follows on the heels of one that Senator DODD, Ranking Member of the Rules Committee, and I submitted and which was passed on February 12, 1999, which suspended the requirements of paragraph 9 of rule XXVI of the Standing Rules of the Senate and authorized a seven-year continuing resolution such as is before the Senate at this time.

As we informed committees in a joint letter on January 22, Y2K concerns had prompted the Senate's recent adoption of the new Financial Management Information System (FMIS). This new financial management system, which is designed to conform to the Federal Government's fiscal year that runs from October 1, to September 30, requires that we consider adjustments in the committee funding system. To allow all due deliberation, we determined that the wisest course was to

authorize the committees through the balance of this fiscal year and use that time to carefully design a committee funding procedure in light of the new FMIS. To that end, the Rules Committee will be conducting hearings and seeking the input of the various Senate committees on these questions. And, of course, we invite the committees to make recommendations on baseline funding, full-time employee levels and other concerns related to authorizing the balance of the biennium.

The interim funding resolution also authorizes the use of unexpended committee funds, as has been done in some form since 1989. Section 20 of this resolution authorizes the use of Special Reserves on a committee-by-committee basis. It also provides a mechanism to make unexpended funds as of the close of business on February 28, 1999, available to cover non-recurring needs for committees through September 30.

It should be noted that all of the unexpended funds represent previously authorized funds which have not been spent. They are not new authorized funds. This policy has successfully served as an incentive to reduce spending. Without it, the policy would effectively be to spend it or lose it with a predictable outcome that more money would be spent.

Mr. President, let me also add that this interim resolution does not increase FTE positions and reiterate that it provides for special reserves funding as needed. Further, this resolution keeps the total authorized amount within the appropriations previously authorized in the Fiscal Year 1999 Legislative Branch Appropriations Bill for ''Inquiries and Investigations.''

I urge the Senate to adopt this resolution, and I yield the floor.

Mr. DODD. Mr. President: I am pleased to join with my distinguished colleague, the Chairman of the Committee on Rules and Administration, Senator MCCONNELL, in introducing this resolution to provide for funding for the standing committees of the Senate. This resolution authorizes committee expenditures for the remaining seven months of Fiscal Year 1999. This resolution is being enacted pursuant to S. Res. 38, adopted on February 12, 1999.

Since 1989, the Committee has provided funding for the committees on a biennial basis. This has proved to be an effective management tool for assuring continuity of funding throughout a Congress. The Committee does not intend that this short-term funding resolution signal a departure from that tradition. Instead, this seven-month continuing resolution will allow the Rules Committee to consider the impact of changes in the Senate's financial management and accounting systems, which have been necessitated by Year 2000 (Y2K) concerns, on the committee funding cycle.

Under normal procedures, each committee would have reported its biennial funding resolution to the Senate by January 31, and the Rules Committee would have then acted to report an omnibus committee biennial funding resolution providing funding for the period March 1, 1999 through February 28, 2001. The Rules Committee will initiate that process in late spring, so that each committee will have the opportunity to present its budget to the Rules Committee for action prior to enactment of a funding resolution for the remainder of the biennial period. During this period, the Committee will also seek input from the chairmen and ranking members of the standing committees with regard to changes in committee funding which may be required to conform to the Senate's new Y2K compliant financial system.

This resolution funds committees at the current baseline level, increased by a 3.1% salary cost-of-living adjustment (COLA). This resolution also authorizes the use of Special Reserves, which are the reprogrammed funds remaining in the appropriations account at the end of the committee funding cycle on February 28. These funds are made available to committees to meet unforeseen, non-recurring expenses. These funds are accessed by the joint request of the chairman and ranking member of the committee, and the joint approval of the chairman and ranking member of the Rules Committee.

I commend my colleague, the Chairman, for his efforts to bring this resolution to the Senate floor today. By adopting this resolution, we are ensuring continued funding for committees while at the same time allowing the Rules Committee to fully review the impact on committees of changes in the Senate financial management and accounting system.

I urge my colleagues to adopt this resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that S. Res. 49 be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 49) was agreed to, as follows:

S. RES. 49

SECTION 1. AGGREGATE AUTHORIZATION.

(a) IN GENERAL.—For purposes of carrying out the powers, duties, and functions of the Senate under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized for the period March 1, 1999, through September 30, 1999, in the aggregate of $28,632,851, in accordance with the provisions of this resolution, for all Standing Committees of the Senate, for the Committee on Indian Affairs, the Special Committee on Aging, and the Select Committee on Intelligence.

(b) REPORTING LEGISLATION.—Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than September 30, 1999.

(c) EXPENSES OF COMMITTEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required—

(A) for the disbursement of salaries of employees of the committee who are paid at an annual rate;

(B) for the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, Department of Telecommunications;

(C) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate;

(D) for payments to the Postmaster, United States Senate;

(E) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate; or

(F) for the payment of Senate Recording and Photographic Services.

(d) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees from March 1, 1999, through September 30, 1999, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations'' of the Senate.

SEC. 2. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,091,991, of which amount—

(1) not to exceed $4,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. COMMITTEE ON ARMED SERVICES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration

to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,693,175 of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 4. COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,784,395, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $850, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 5. COMMITTEE ON THE BUDGET.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,945,784, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 6. COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,157,797, of which amount—

(1) not to exceed $14,572, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $15,600, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 7. COMMITTEE ON ENERGY AND NATURAL RESOURCES.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,650,792.

SEC. 8. COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,518,386, of which amount—

(1) not to exceed $8,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 9. COMMITTEE ON FINANCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,892,206, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 10. COMMITTEE ON FOREIGN RELATIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,697,074, of which amount—

(1) not to exceed $45,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $1,000, may be expended for the training of the professional staff of

such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 11. COMMITTEE ON GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,836,961, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $2,470, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of the committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1999, through September 30, 1999, is authorized, in its, his, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 54, agreed to February 13, 1997 (105th Congress) are authorized to continue.

SEC. 12. COMMITTEE ON THE JUDICIARY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,733,379, of which amount—

(1) not to exceed $60,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 13. COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration

to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $2,574,140, of which amount—

(1) not to exceed $22,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $12,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 14. COMMITTEE ON RULES AND ADMINISTRATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $929,755, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 15. COMMITTEE ON SMALL BUSINESS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $677,992, of which amount—

(1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 16. COMMITTEE ON VETERANS' AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $703,242, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $3,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946).

SEC. 17. SPECIAL COMMITTEE ON AGING.

(a) GENERAL AUTHORITY.—In carrying out the duties and functions imposed by section 104 of S. Res. 4, agreed to February 4, 1977, (Ninety-fifth Congress), and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $708,185, of which amount not to exceed $15,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i)of the Legislative Reorganization Act of 1946).

SEC. 18. SELECT COMMITTEE ON INTELLIGENCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Congress), in accordance with its jurisdiction under section 3(a) of that resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of that resolution, the Select Committee on Intelligence is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $1,325,017, of which amount not to exceed $35,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946).

SEC. 19. COMMITTEE ON INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out the duties and functions imposed by section 105 of S. Res. 4, agreed to February 4, 1977 (Ninety-fifth Congress), and in exercising the authority conferred on it by that section, the Committee on Indian Affairs is authorized from March 1, 1999, through September 30, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

(b) EXPENSES.—The expenses of the committee for the period March 1, 1999, through September 30, 1999, under this section shall not exceed $712,580, of which amount not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946).

SEC. 20. SPECIAL RESERVES.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Of the funds authorized for the Senate committees listed in sections 3 through 21 by S. Res. 54, agreed to February 13, 1997 (105th Congress), for the funding period ending on the last day of February 1999, any unexpended balances remaining shall be transferred to a special reserve which shall, on the basis of a special need and at the request of a Chairman and Ranking Member of any such committee, and with the approval of the Chairman and Ranking Member of the Committee on Rules and Administration, be available to any committee for the purposes provided in subsection (b).

(2) PAYMENT OF INCURRED OBLIGATIONS.—During March 1999, obligations incurred but not paid by February 28, 1999, shall be paid from the unexpended balances of committees before transfer to the special reserves and any obligations so paid shall be deducted from the unexpended balances of committees before being transferred to the special reserves.

(b) PURPOSES.—The reserves established in subsection (a) shall be available for the period commencing March 1, 1999, and ending with the close of September 30, 1999, for the purpose of—

(1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1999, and which were not deducted from the unexpended balances under subsection (a); and

(2) meeting expenses incurred after such last day and prior to the close of September 30, 1999.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. WARNER. Mr. President, if there be no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:55 p.m., adjourned until Thursday, February 25, 1999, at 11 a.m.