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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 29, 1999, at 12:30 p.m.

## Senate

MONDAY, JUNE 28, 1999

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, we thank You for outward symbols of inner meaning that remind us of Your blessings. The sight of our flag stirs our patriotism and dedication. It reminds us of Your providential care through the years, of our blessed history as a people, of our role in the unfinished and unfolding drama of the American dream, and of the privilege we share living in this land.

Today, as we pledge allegiance to the flag, we recommit ourselves to the awesome responsibilities You have entrusted to us. May the flag that waves above this Capitol and the flag here in this Chamber remind us that this is Your land.

Our flag also gives us a bracing affirmation of the unique role of the Senate in our democracy. In each age, You have called truly great men and women to serve as Senators. May these contemporary patriots experience fresh strength and vision, as You renew the drumbeat of Your Spirit, calling them to march to the cadence of the rhythm of Your righteousness. In the name of our Lord and Savior. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. We will now have the Pledge of Allegiance to the flag led by Senator KYL.

The PRESIDING OFFICER (Mr. KYL) led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Alabama is recognized.

### SCHEDULE

Mr. SESSIONS. Mr. President, on behalf of the majority leader, I would like to note that the Senate will now be in a period of morning business until 1 p.m. Following morning business, the Senate will resume consideration of the agriculture appropriations bill. Under a previous order, the Senate will begin a series of up to four stacked cloture votes at 5:30 p.m. Those votes will be on invoking cloture on the agriculture appropriations bill, followed by cloture on the motion to proceed to the transportation appropriations bill, cloture on the motion to proceed to the Commerce-State-Justice appropriations bill, and cloture on the motion to proceed to foreign operations appropriations. Therefore, Senators can expect the first vote to begin at 5:30 p.m.

I thank my colleagues for their attention.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for 10 minutes each.

The Senator from Alabama is recognized.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 1289 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SESSIONS. I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

### MEDICARE PRESCRIPTION DRUG COVERAGE

Mr. WYDEN. Mr. President, and colleagues, this is going to be an important week in the debate about the future of the Medicare program. The White House is coming forward with several useful Medicare proposals. Democrats and Republicans on both sides of the Hill are similarly focused.

This morning I have come to the floor to zero in on the issue of prescription drug coverage for older people under Medicare. I believe if the Senate builds on a bipartisan proposal already approved by a majority of Senators, it will be possible to responsibly add prescription drug coverage to the Medicare program in this session of the Congress.

A few weeks ago, 54 Members of this body voted for legislation offered by

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



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Senator OLYMPIA SNOWE and myself to finance prescription drug coverage for seniors under Medicare with a tobacco tax. Senator SNOWE and I have now developed a specific proposal that calls for a 55-cent-a-pack tobacco tax that would be used to cover the prescription drug needs of older people under Medicare. We think that is appropriate because, of course, the Medicare program spends upwards of \$10 billion a year simply paying for tobacco-related illnesses that older people have suffered.

Under the Snowe-Wyden proposal, we would be able to raise \$70 billion in order to cover prescription drug benefits for older people over the next 10 years. That is hard dollars to cover this important benefit. It is not phantom funding. It is not sleight of hand. It is not a kind of wish-and-hope, pie-in-the-sky way to take care of this particular need for older people. It is a concrete, tangible concept.

A majority of the Senate, Senators of both political parties, have voted for it. I am very hopeful that it will be possible now for the Senate to build on this support, with bipartisan approval, to actually get the job done and support older people.

In the legislation that Senator SNOWE and I have put together, we envision this \$70 billion being used to assist older people with the insurance premiums that they now pay for Medicare supplemental policies. As we know, many of our seniors have Medicare supplemental policies. Many of our seniors participate in what is called Medicare Choice, a program that involves Medicare HMOs. It may well be that a number of seniors wish to purchase policies that cover only prescription drugs.

But what Senator SNOWE and I have developed would be voluntary. No senior would be required to do it. The Presiding Officer and I will recall the catastrophic care fiasco of several years ago when older people were concerned about being required to pay for something they did not really need or did not particularly want.

That would not be the case under the legislation developed by Senator SNOWE and I. It would be voluntary if an older person chose to participate in the program; and \$70 billion in real funding would be eligible to assist the older people who desire to have that coverage as part of their Medicare.

Senator SNOWE and I believe the best way to deliver this coverage is to build on a model that Members of Congress know a fair amount about, and that is the Federal employee health plan.

Senator SNOWE and I recognize that program covers different people than we would be covering under Medicare, so our delivery system for this particular benefit would be a kind of senior citizen's version of the Federal employee health plan. We call it the SPICE Board. It stands for Senior Prescription Insurance Coverage Equity. We consider it a kind of senior citizens' friendly version of the Federal employee health plan.

We have incorporated some of the very good ideas that have come from Families USA, the seniors' advocacy group, the National Council of Senior Citizens, and a variety of the senior citizens' organizations, to ensure that the SPICE Board that would deliver this system would offer choices and competition for older people but at the same time would not allow cherry-picking; so that a plan could not take just healthy people, it would make sure there were protections against adverse selection.

We bar the use of preexisting conditions. A lot of the problems we have seen with insurance coverage in the past would not be allowed under the SPICE Board because we have incorporated many of the good ideas that have come from AARP and Families USA and the National Council of Senior Citizens so as to ensure that the SPICE Board would offer these benefits to older people in a senior-friendly way.

At the same time, it is important to note that this is a competitive model. This will help us to hold costs down because older people would have the kind of bargaining power, through the SPICE Board, that an HMO has today when it bargains for younger people getting prescription drug coverage under the Federal employee health plan.

I think it is particularly sad to see older people, many of whom have 16, 18, 20 prescriptions they are using in a year, paying well over \$1,000 out of pocket for their medicine. It is particularly outrageous that they end up paying a premium, since they don't have coverage, when they walk into a pharmacy and pay out of pocket. They have to pay more because, in effect, they are subsidizing those who have bargaining power in the private sector who get their coverage through a managed care plan.

We use an approach that uses markets, offers choice, avoids price controls, but makes sure that through the SPICE Board, older people would have the kind of bargaining power and clout we see HMOs having in the private sector.

I am very hopeful that this week, as the Congress moves to have a vigorous discussion about Medicare—the President's proposal is coming tomorrow; our colleagues on both sides of the Hill expressing great interest in this issue—Members will reflect on the fact that a majority of the Senate has already voted for the Snowe-Wyden proposal to finance this coverage with a tobacco tax. It is only fair, because of the costs Medicare incurs related to tobacco. We know now that a bipartisan group of Senators is willing to at least look at that approach to finance this coverage.

I am also very hopeful that our colleagues will steer clear of some of these price control ideas that would create more bureaucracy. Incidentally, most of these price controls just shift the cost onto the backs of other con-

sumers. I am very fearful that if we set up a price control regime for older people under Medicare, a lot of low-income folks, African Americans, Hispanics, and others would end up seeing the costs shifted onto them because they wouldn't have any protection from this price control regime.

In addition to the real intangible way that is going to be essential to finance this program, we ought to use a concept the Congress is familiar with for delivering the benefit. Under the Senior Prescription Insurance Coverage Equity Program, the SPICE Program, we would be able to do that. We would be able to deliver the benefit in a way that allows senior citizens to exercise clout in the marketplace and be in a position to hold their costs down. There would be real consumer protections because we have incorporated the good ideas from Families USA and AARP and the National Council of Senior Citizens.

I am very hopeful as this debate goes forward this week, our colleagues in the Senate will see there is a chance to avoid some of the bickering and partisanship that has accompanied other issues, look to giving older people this important preventive benefit that is so critical but financing it in a real way, not with phantom kind of money, and then delivering the benefit in a way that steers clear of price controls but gives older citizens in our country the kind of bargaining power an HMO has so the older people can get reasonable prices for their coverage.

I know the Presiding Officer has a great interest in this issue. He and I have worked often on this matter. He can count on the fact that Senator SNOWE and I will be visiting with him, as well as other colleagues, because it is our intent to do everything possible to keep the Senate, at least on the prescription drug issue, focused on the real needs of older people and the opportunity to address this issue in this session of Congress with real and hard financing and a delivery system that will work for the 21st century.

I yield the floor.

#### TRIBUTE TO GENERAL JAMES L. JONES, JR.

Mr. CLELAND. Mr. President, it is a distinct honor and personal privilege for me to pay tribute to two distinguished Americans. One of them is General James L. Jones, Jr., the newly confirmed 32nd Commandant of the United States Marine Corps.

The general hails from Kansas City, Missouri. He spent his formative years in France where he acquired his fluency in the French language.

He is a graduate of Georgetown University School of Foreign Service and I understand he still keeps up a Georgetown tradition by playing a little basketball now and then.

General Jones is a warrior—part of a family of distinguished marines. His father commanded a Marine Corps Force

reconnaissance company during the Second World War. His uncle, Lieutenant General William Jones, commanded Marine Forces in the Pacific and had a long and distinguished combat record.

On a personal note, General Jones and I served together in Vietnam during the siege of Khe Sahn. The general was twice decorated for bravery, receiving the Silver Star Medal—our Nation's third highest award for valor—as well as the Bronze Star Medal with combat "V."

For me, the general is truly "a brother of the bond"—a member of the small "band of brothers" who have served their country with courage and honor in the crucible of combat.

General Jones is a highly experienced infantry commander and staff officer—during his long and distinguished career he has served as an infantry battalion commander, Marine Expeditionary Unit commander and as the commanding general of the Second Marine Division at Camp Lejeune, North Carolina.

He has led marines from the fire-swept rice paddies of Vietnam to the mountains of Northern Iraq and Turkey.

General Jones just recently completed an assignment as the Military Assistant to the Secretary of Defense, our former colleague Bill Cohen. In this capacity, he accompanied the Secretary around the globe in support of the defense of our Nation's vital national interests.

Many may not know this, but General Jones is also a "veteran" of the United States Senate. He served as the Marine Corps Liaison Officer to the Senate alongside another colleague—then Captain, United States Navy, JOHN McCAIN.

Mr. President, I, again, welcome Lieutenant General Jones as the 32nd Commandant and as the newest member of the Joint Chiefs of Staff. He will lead one of the finest military organizations on Earth, the United States Marine Corps. He will be responsible for our Nation's premier "911" force, charged with guiding and directing our Corps of Marines into the new century and millennium.

I know I speak for my colleagues on both sides of the aisle in wishing General Jones, his lovely wife Diane—as well as his family Jim Jr., Kevin, Greg, and Jennifer—our very best wishes. On June 30, 1999, he will take on the awesome responsibility of being the 32nd Commandant of the Marine Corps. Semper Fi and Godspeed, General Jones.

#### TRIBUTE TO GENERAL ERIC K. SHINSEKI

Mr. CLELAND. Mr. President, I rise today to recognize a distinguished soldier, General Eric K. Shinseki, whose inspiring personal journey is a story that could happen only in America.

My good friend and distinguished colleague, the senior senator from Hawaii,

presented a moving tribute to General Shinseki when he formally introduced his fellow Hawaiian to the Armed Services Committee on June 8th. Senator INOUE reminded us that when the general was born on the island of Kauai in the midst of the Second World War, his Japanese heritage made him, according to the regrettable laws that existed at that time, an enemy alien. Due in large part to the heroism of noble Hawaiians like our colleague, who fought so bravely and honorably and at such great personal sacrifice with the 442d Regimental Combat Team in Europe, Japanese-Americans no longer bear the indignity that the government of their country visited upon them during that time of war. As Senator INOUE reminded us, President Roosevelt declared that Americanism is a matter of mind and heart and that it is not, and never has been, a matter of racial color. The birthright that Senator INOUE's blood purchased for these Americans enabled young Ric Shinseki to rise to the top of the military profession in this great country. And for that we owe a tremendous debt of gratitude to our brave and distinguished colleague.

General Shinseki began to show promise at a tender age. An outstanding student, he left the Territory of Hawaii for the first time and came east to become a high school exchange student in New Jersey.

Having broadened his horizons, he sought and secured an appointment to the United States Military Academy. While a cadet at West Point he heard a young president challenge the Nation to "ask not what your country can do for you. Ask what you can do for your country." He listened in the Cadet Mess as General of the Army Douglas MacArthur eloquently defined the words of the Academy motto, "Duty, Honor, Country." Cadet Shinseki has never stopped answering those ringing calls to duty. He answers them still.

He graduated from the Military Academy in 1965 with a commission in the field artillery. He soon found himself en route to Vietnam and a tour of duty with the 25th Infantry Division, the "Tropic Lightning" Division. Onboard a ship crossing the Pacific a veteran non-commissioned officer taught the young lieutenant his craft. For days and days the two men drilled on the techniques of calling for and observing artillery fire. Second Lieutenant Shinseki never forgot the value of skilled and dedicated non-commissioned officers. He has been a soldier's soldier ever since.

Combat wounds cut short his tenure in Vietnam. After a long convalescence, he volunteered to return to the war, to answer the summons of the trumpet once again. While commanding a cavalry troop with the 5th Infantry Division, he received another wound, this one far more serious. For a while, his life was in jeopardy. And even after the healing had begun, there were serious questions about whether he could continue his career.

True to his nature, honoring his birthright and still answering the call to duty, Ric Shinseki fought to stay in the Army. Fortunately for us, the Army saw more than a little potential in this twice-wounded warrior, and granted his request to stay. They sent him to Duke University to get a degree in English literature so that he could return to teach at his alma mater on the banks of the Hudson. There, as a member of the West Point faculty, he could teach and mentor a new generation of officers, inspiring them with his stoic example of duty and sacrifice.

Since that time, General Shinseki has built two great legacies in the Army. First, he is a leader and trainer of soldiers. He has been a commander and operations officer in armored and mechanized formations from the 3rd of the 7th Cavalry in Europe, to my own beloved First Team, the First Cavalry Division at Fort Hood, Texas, where he served as commanding general.

General Shinseki has also built a reputation as a brilliant staff officer who has helped the army to shape its force and modernize its training during tours of duty in five different positions in the Office of the Deputy Chief of Staff for Operations and Plans. There he came to know the army as an institution, to learn the folkways of the Pentagon, and to understand the byzantine nature of this great city.

In 1997 the President and the Senate recognized the enormous potential of this soldier by promoting him to a fourth star and appointing him Commanding General of United States Army, Europe. This critical assignment was all the more important because General Shinseki was also soon to become Commanding General of the Stabilization Force (SFOR) in Bosnia-Herzegovina. There he undertook the difficult and delicate mission of implementing the Dayton Peace Accords among the Bosnians, Croats, and Serbs, a task whose complexity has been underscored by our more recent trials in the Balkans.

Last year, General Shinseki returned home to become Vice Chief of Staff of the Army, to run the staff in the building he knows so well. He has brought a mature, steady hand to his administration of the Army Staff.

A combat veteran, a soldier's soldier, an accomplished trainer, a consummate staff officer, a respected commander, this son of Japanese immigrants who was born an enemy alien has now risen to the pinnacle of the American military profession. Wow, what a story. In a ceremony on June 22, 1999 at Fort Myer, Virginia, General Eric K. Shinseki assumed duty as the 34th Chief of Staff of the Army.

He is a visionary leader and there is no one better qualified to lead the United States Army into the next millennium. I salute his service, his sacrifice, his devotion to duty. I applaud his perseverance, his intelligence, his humility. I feel honored that the members of the Armed Services Committee

and I will have many opportunities to work with General Shinseki over the next several years as we labor to guarantee the readiness of the Armed Forces and to maintain our covenant with the men and women of the United States Army, who guarantee our own freedoms and guard our interests at home and abroad.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. I ask unanimous consent to speak in morning business for 10 minutes.

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

#### RURAL SATELLITE SERVICE

Mr. THOMAS. Mr. President, rural states are particularly affected by satellite service. Telecommunications is changing the way things are done, providing more and more of our services through satellites. Yet we have difficulty with people who live in low-density areas, people who live in the country, receiving their local satellite service.

This is a common problem in a low-density State such as Wyoming, where we have fewer people, where we have more rural areas. Many issues we work on have a unique impact on people who live in rural areas. The reregulation of electricity, for example, has a different impact in Wyoming than it does in Pennsylvania. That is true, also, with the delivery of health care services.

It is important, when we deal with nationwide issues, that we also take some time to give special attention to the differences that exist among consumers in the country. That is particularly true with TV. Technology and satellite TV have allowed TV services to be delivered in places it could never be delivered before. However, there are many rural people who cannot receive over the air television signals. That is the case in Wyoming.

Technology and satellite TV are great because they often provide people with more services. Indeed, it does. But it is difficult to provide local TV, local news, and local emergency signals that are given by the local stations. When a satellite company cannot do that, customers get their NBC broadcast in Rawlins, WY, they receive it from Chicago. That is a problem in terms of being able to have those local services available to consumers.

It is important, No. 1, we maintain local broadcast markets. It is important, as well, that people who live in that vicinity have the opportunity to see local news, to hear about local ac-

tivities, to participate locally. The problem is, how do you provide satellite service and at the same time provide local news and local activities, as well?

This week, the Senate-House conference will be meeting regarding the Satellite Home Viewers Improvement Act. Hopefully, something will come out of that. This is legislation which will enable more customers to receive broadcast network television. The question is, of course, who can adequately receive local service from their own antenna and who can receive these local broadcasts through a satellite provider.

I had meetings in Wyoming this week. We only have two areas in Wyoming where the local TV has a designated area; the others do not. There are 15 States that do not have local-to-local service at all. When people up for satellite TV and they want the national broadcast—which is done locally, if you can receive that from an antenna—viewers are blocked from receiving it on the satellite.

The difficulty is determining the strength of the signal that comes to that antenna. There is a great difference of view about that. Frankly, it is very uncertain who makes that determination.

The first issue is determining the strength of the signal. You have to find out if that signal is strong enough so you qualify to get it over your antenna, or have a technician show that it isn't.

That is the difference of view. There needs to be a third party who says, whether you have adequate signal strength. Some viewers are behind a mountain or in a valley and can't get it. That is part of the problem.

Another problem is considering the local market. Over 25 percent of the viewers in Wyoming receive their TV from satellites. This is the third highest percentage, I believe, in the United States. That is not a huge number of people, but it is a very high percentage of people.

Without satellite access of course, the customers have no TV at all. Under the current situation, the TV they do get often comes from distant network stations.

There are two problems. One is that there has been a moratorium so these viewers could continue to get their services. That moratorium is scheduled to expire at the end of this month for folks in Grade A. In the Grade B contour network service expires at the end of the year; and there is nothing to be done in the interim. We need to deal with the immediacy of the problem—hopefully give customers another moratorium to continue network service. Second, we need to decide how we can get local-to-local coverage, how we can get the local TV station carried in a "must carry" proposition.

There are two difficulties. One, I am told—and I am not completely persuaded—that there is a lack of capacity

on the satellites. In order to do that, additional satellites must be launched to carry all the local stations so people can get local broadcasts. Of course, that runs into the third issue—money.

I know the folks in Kansas would be just as excited about having TV coverage as the folks in Wyoming; and I am sure the Presiding Officer would be instrumental in making this happen.

In summary, I think many individuals would like to use satellites for their TV viewing. People in the country also want to have their local station available to them. They do not want to be blocked from receiving NBC or CBS because they are within the area that their local station carries, despite the fact they can't get it well on their own TV.

This is a problem that can have a happy resolution. Ideally, everyone could receive TV and have a good picture. Ideally, everyone could view their local station. We will work toward this end. I hope the conference committee meeting now can help find a way to provide a remedy for the short term and then set up an efficient system as we look to the future.

We have written a letter to the committee—I think there are 24 signatures on this letter—urging they set up a commission to determine how this might be done to resolve the question in the long term. I am optimistic that can be done.

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

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

U.S. SENATE,

Washington, DC, June 11, 1999.

Hon. JOHN MCCAIN,

Chairman,

The Honorable ERNEST F. HOLLINGS,

Ranking Member, Senate Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, DC.

Hon. ORRIN G. HATCH,

Chairman,

The Honorable PATRICK J. LEAHY,

Ranking Member, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR COLLEAGUES: We are writing today to request your support for efforts to ensure local service for small television markets during conference committee deliberation of comprehensive satellite legislation.

While we support provisions in this legislation that will allow the satellite retransmission of local television signals back into local markets ("local into local"), we are concerned that satellite providers are not expected to provide local service to the 19 million U.S. households in the smallest 150 rural and less populated markets. We believe that all Americans should receive the benefits of educational, informational and entertainment programming resulting from the reception of local signals.

We are particularly concerned that at least 15 states, including many of our own, do not have a single television market which will receive local television retransmission. Therefore, disagreements will continue over importation of distant network signals, and worse, rural America will be deprived of important communications access.

While the legislation passed by the Senate requires the FCC to report on methods of facilitating "local into local", we believe there should be a more focused effort towards the goal of implementing "local into local" as soon as technically possible. To this end, we support the creation of a Local Television Planning Group that would make recommendations to Congress to ensure that all local television signals are retransmitted by appropriate technologies as soon as practicable. This Planning Group should be convened under the auspices of the National Telecommunications and Information Administration (NTIA), and should include representative local broadcasters and knowledgeable senior staff drawn from relevant federal agencies such as the Federal Communications Commission, the Department of Justice, and agencies within the Department of Agriculture that specialize in providing services to rural America. We believe this is a workable approach that ensures no portions of America are left out of the information age.

Thank you for your consideration. We look forward to working with you on this important issue for rural Americans.

Sincerely,

Max Baucus, Tom Daschle, Tim Johnson, Harry Reid, Larry E. Craig, Chuck Grassley, Jim Bunning, Pat Roberts, Bob Smith, Craig Thomas, Bob Kerrey, Tom Harkin, Paul Wellstone, Byron L. Dorgan, Jim Inhofe, Wayne Allard, James M. Jeffords, Michael B. Enzi, Susan Collins, Michael Crapo, Rod Grams, Frank H. Murkowski, Thad Cochran, Ron Wyden.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXTENSION OF MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent—and this has been cleared on both sides—that we continue in morning business until the hour of 3 p.m., with the time equally divided between both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

#### NATIONAL SECURITY

Mr. AKAKA. Mr. President, as a member of the Energy Committee and the Governmental Affairs Committee where I am ranking member on the International Security, Proliferation and Federal Services Subcommittee, I

have benefited from numerous briefings and extensive hearings on the issues raised in the House select committee's Report on U.S. National Security and Military/Commercial Concerns With the People's Republic of China. Representative Cox and Representative DICKS and their colleagues on the House select committee have done the country a great national service in producing the report.

The bipartisan manner in which they conducted their analysis is an example to us all of the importance of placing bipartisanship above political interests for the sake of national security.

I was dismayed, as other Members have been, by the extent of Chinese espionage efforts exposed in the committee's report. I wish we could say that American efforts and commitment to countering Chinese espionage were as relentless and as persistent as their ongoing efforts to acquire information from us.

Importantly, the President and the entire administration have taken major steps to reform our security at the national nuclear weapons laboratories and to improve our counterintelligence capability. Many of these changes were ordered by the President in February 1998 well before the House Select Committee was formed.

Additional measures were taken during the committee's review as the extent of Chinese espionage became apparent.

Let me make two cautionary statements:

There is a great deal of discussion now in Washington as to whom to blame for the security lapses. There is the usual round of finger-pointing and calls for this or that person to resign.

We should not spend all of our time searching for scapegoats. Only our adversaries take solace when we turn on ourselves and become distracted by partisan squabbling. Let us instead focus our attention on improving our security and rooting out those guilty of betraying America.

Secondly, let us not sacrifice our efforts to build a constructive relationship with the Chinese people because of our justifiable anger at their government's espionage.

Much of what has occurred is to our embarrassment for not being more vigilant.

We need to engage China. We have issues and problems that can only be resolved by cooperation. These include bread and butter issues such as reducing our trade deficit and improving market accessibility for American goods. They include global issues such as global warming and the proliferation of weapons of mass destruction.

The Select Committee's report indicates that, despite international commitments to the contrary, China continues to proliferate weapons of mass destruction.

To convince China to cooperate with us in ending the threat of proliferation we will need to engage China.

Our foreign visitor's program at the national laboratories has provided us with one opportunity to engage the Chinese on issues such as improving export controls. With enhanced restrictions, these programs should continue. It is our openness to the best scientific minds which aids America in keeping its intellectual edge sharp on the frontiers of science.

But engagement is not a one-way street.

China needs to demonstrate that it wants to and can engage the United States in a constructive and cooperative manner.

China can choose to swamp us either with spies or with friends. The choice is theirs.

There is a sense in the country from the revelations contained in the Cox Committee report that the Chinese have "poisoned the well" of relations between the United States and China. The report observes that "the PRC uses a variety of techniques, including espionage, controlled commercial entities, and a network of individuals and organizations that engage in a vast array of contacts with scientists, business people, and academics."

The report further charges that there are an increasing number of Chinese "front companies" in the United States attempting to gain access to our technology and national security secrets. China seems to be almost unchecked in its efforts to gain information on the United States.

This view has two detrimental effects. The first effect is on the overall perception of the benefits of relations with China.

On June 3, the President took the correct step of renewing normal trade relations with China. But it was a step that China needs to match. With a growing trade imbalance of \$57 billion in 1998 out of a total trade of \$85.4 billion, China is our fourth largest trading partner. We are also the third largest foreign investor in China. During the Asian financial crisis, American trade with China played a substantial role in keeping the Chinese economy afloat as Chinese exports to the U.S. grew even as Chinese exports to other nations fell. The lesson for China is that we are too important for them to ignore. The lesson for us is that China has become too big for us to ignore.

A step in the right direction for both countries is to achieve an agreement on conditions for China's entry into the World Trade Organization. Chinese participation in this international body would be a major leap forward into integrating China in the world economy. Conditions that permit more access for American goods and protection for American investment in China would help accelerate the modernization of the Chinese economy.

I think the battle within China over whether or not to participate in the international economy has been won by the advocates of modernization led by President Jiang Zemin and Premier

Zhu Rongji. Granting NTR to China this year will set the stage for a conclusion to the long-running negotiations with China over WTO accession. I support renewal of NTR for China because it is an essential step towards redefining American-Chinese relations in terms of mutual benefit rather than in terms of winner and loser.

The second discouraging effect of the report is to taint Asian Americans, especially Chinese Americans, with the stain of suspicion of espionage. This unfair, but very real, perception came through clearly during a recent visit by Energy Secretary Bill Richardson to Lawrence Livermore National Laboratory where one Asian American employee declared, "we all feel like suspects of espionage." Mr. Hoyt Zia, chief counsel for export administration in the Commerce Department, wrote in the New York Times recently about the unfortunate and unwarranted charge that "Asian-Americans continue to be accused of having dual loyalties to a degree far greater than any other immigrant group to this country."

I commend his article, "Well, Is He A Spy—Or Not?", to my colleagues and ask unanimous consent that the article be printed in its entirety in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. AKAKA. Thank you, Mr. President.

Yes, it is true, according to our counter intelligence specialists, that Chinese intelligence officers target Chinese Americans and that they also rely on Chinese in the United States who are not American citizens, but it has always been true that foreign intelligence services seek out Americans with similar ethnic backgrounds when trying to establish spy networks. There are numerous examples of this. During the cold war, East German operatives targeted German Americans. From an operational perspective, this only makes sense.

It is the job of all Americans to be vigilant, regardless of ethnic background. This is the lesson of the recent concern over national security leaks. We should not overreact or allow ourselves to become sidetracked by unsupported charges that unfairly tarnish any individual or group absent solid evidence. As the recent report about national lab security by a Presidential panel chaired by former Senator Warren Rudman stated, "enough is enough." We need now to sit down, review, improve our security procedures and think seriously anew about our policy towards China.

I urge my colleagues in joining me in examining next steps, not our last steps, in an effort to implement security reforms at the national laboratories and to encourage the development of a more effective policy towards the People's Republic of China.

I thank the Chair for this time. I, again, ask that we seriously look into our relationship with China.

EXHIBIT No. 1

[From the New York Times, May 26, 1999]

WELL IS HE A SPY—OR NOT?

(By Hoyt Zia)

WASHINGTON, DC.—After serving almost five years in the Clinton Administration, I've learned a number of things about Washington—and one of them is how innuendo can ruin a reputation in no time.

In my job as chief counsel for export administration in the Commerce Department, I work daily with classified information in order to help regulate technology exports to China and other countries that can be used for military purposes.

As such, I am well familiar with the risks to national security that could result from the improper disclosure of classified information, as well as the highly politicized nature of technology transfers to China. From this vantage point, I find myself greatly troubled by the atmosphere surrounding the espionage allegations leveled against Wen Ho Lee, a nuclear weapons scientist at Los Alamos National Laboratory in New Mexico. I'm afraid this tension is only going to get worse with the release yesterday of the report from the Congressional investigation led by Representative Christopher Cox.

The case against Mr. Lee goes something like this: In 1996, intelligence officials obtain a Chinese document from 1988 containing classified information about an advanced American nuclear warhead. Since Mr. Lee traveled to China for scientific conferences in 1986 and 1988, and in 1982 had called a Chinese-American scientist at another national lab who was suspected of espionage, he was added to the Federal Bureau of Investigation's list of Chinese spies.

After a three-year investigation by the F.B.I. yielded insufficient evidence to support a charge of espionage, Mr. Lee was fired from his job in March for unspecified breaches of security and identified as an espionage suspect. While recent Congressional investigations into the matter, including the one led by Representative Cox, have concluded that Chinese spying at the labs is pervasive and ongoing, there is no other evidence that Mr. Lee passed classified information to the Chinese, intentionally or otherwise. Nonetheless, many in the media and in the Government have pronounced Mr. Lee guilty of passing nuclear weapons secrets to the Chinese.

Let me make clear that I do not defend Mr. Lee's alleged misconduct or contend that he has not done anything wrong. While the F.B.I. has yet to uncover any evidence to support charging him with espionage, he appears to have committed gross violations of the rules for handling classified material. The details of the security violations for which he was fired were never specified, but subsequently it was found that he had transferred highly classified nuclear weapons programs from a protected classified computer system to his unprotected desktop computer. If Mr. Lee indeed mishandled classified information, then he deserves to be punished for those violations, the same as anyone else.

Nevertheless, such violations do not on their face make him a spy. A charge of espionage requires the specific intent to steal the secrets of one in order to turn them over to another. Mishandling classified information has nothing to do with giving secrets away, but simply failing to safeguard them properly.

It has been reported that many of Mr. Lee's colleagues at the national laboratories have also been lax about observing these

rules. Even John Deutch, the former head of the Central Intelligence Agency, was reportedly investigated after being accused of mishandling classified information, including allegedly having 31 secret C.I.A. files on his unsecure home computer. And it is well known that the major national weapons labs long resisted F.B.I. and Congressional pressure to tighten their security policies.

While Mr. Lee should not be excused because "everybody does it," neither should he be singled out if he has acted no differently from many of his colleagues of all ethnicities.

Although the problem of lax security has been around for two decades and largely unnoticed, the controversy surrounding Mr. Lee will not let up. Attorney General Janet Reno has been vilified for the Justice Department's decision not to order wiretaps on Mr. Lee. Under normal circumstances would this even have been considered given the inadequate evidence? And there has even been talk of banning those scientists with "dual loyalties" from our scientific laboratories.

Why this single-minded pursuit of Mr. Lee? There is an obvious difference between him and others in his position: He is of Chinese ancestry. For reasons that I cannot fathom, and notwithstanding numerous cases of exemplary service to this country, Asian-Americans continue to be accused of having dual loyalties to a degree far greater than any other immigrant group in this country.

I know—I, too, have been accused of having dual loyalties because, though an American, I happen to be of Chinese ancestry. During the Congressional investigations into improper campaign fund-raising, I, like many other Asian-Americans, was interviewed by Federal and Congressional investigators as well as by self-appointed "watchdog" groups with their own political agendas.

Though I was not involved in fund-raising and had no personal ties to the Chinese Government, I was named as a possible link to China by far-right publications like *The American Spectator*. The sole evidence was my Chinese ancestry. No official evidence was ever given to support those offensive falsehoods, but the damage to one's reputation from accusations of disloyalty are irreparable.

The link to possible controversy was enough to cause Administration officials to withdraw my appointment to a higher position in the Department of the Navy where, as a former Marine officer, I hoped I could serve. I will forever have to explain to prospective employers why my loyalty as an American was called into question.

It is no secret that the Chinese, like the Israelis, Russians, French, Germans and every other industrialized country, are spying on us every day. Perhaps it is also a fact of life that politicians conjure up fears against minority groups to achieve their objectives.

But in the United States, there is something called due process. If the Government has evidence that Wen Ho Lee committed espionage, it should charge him and let the accusations be aired in a courtroom. If it doesn't, then it should put the matter to rest rather than allow innuendo and rumor not only to smear Mr. Lee but to call into question the loyalty of every Asian-American.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

#### PRUDENT LAYPERSON STANDARD

Mr. BAUCUS. Mr. President, I return to the floor today to urge my colleagues to allow an open debate on the Patients' Bill of Rights. For some time now we have been asking for this debate. Actually, we have been asking for about 2 weeks. Yet we still have not reached an acceptable agreement.

I return to the floor today to continue my discussion of a critically important provision in the Patients' Bill of Rights. This provision ensures appropriate coverage for emergency services according to the prudent layperson standard. Unfortunately, the alternative standard that my colleagues on the other side of the aisle are offering falls short of the true prudent layperson standard. It is unfortunate that we are locked into a divisive debate, since I believe we could reach agreement on this provision.

We have already passed the prudent layperson standard for Medicare and Medicaid beneficiaries—a very important point. It is already in the law. Now we need to complete the task and offer the same protection for hard-working Americans with private insurance.

The bipartisan bill I cosponsored and the Democratic Bill of Rights contain the real prudent layperson standard for emergency services. What is the problem with the version of the prudent layperson standard proposed by those on the other side of the aisle? There are two weaknesses in their version.

First, it provides an inadequate scope of coverage for emergency services. The prudent layperson standard in their bill only applies to 48 million people. Both the bipartisan bill and the Democratic bill apply this support and protection to all 180 million Americans with private health insurance.

I heard arguments from the other side of the aisle that the Federal Government shouldn't get involved in private health insurance. The problem with that argument is simply this: We already are involved. Thankfully, we have made the decision that even if there is no other guarantee in our health care system, we will have guaranteed access to emergency services.

Health care that millions of Americans receive during emergencies is a safety net on which our system relies. Federal legislation already mandates this safety net. The prudent layperson standard in our bill—which, I might add, has bipartisan support—parallels the Federal mandate for emergency care.

If we fail to extend the prudent layperson coverage to all privately insured individuals, then we are choosing to continue an unfunded mandate.

The other major weakness in the prudent layperson provisions in the Republican bill is the lack of provisions

for post-stabilization services. Mr. President I want to point out what the debate about post-stabilization services is all about. It simply boils down to two questions:

(1) Is post-stabilization care going to be coordinated with the patient's health plan, or is it going to be uncoordinated and inefficient?

(2) Are decisions about post-stabilization care going to be made in a timely fashion, or are we going to allow delays in the decision-making process that compromise patient care and lead to overcrowding in our nation's emergency rooms?

When I have heard arguments about the post-stabilization services, I have heard opponents of these provisions characterize post-stabilization care as "optional."

Mr. President, we need to understand that no matter what Congress decides to do, post-stabilization care will be delivered in our nation's emergency rooms. The care delivered after stabilization is not optional. The choice Congress has is to decide whether the care will be coordinated or uncoordinated.

Kaiser-Permanente is a strong supporter of the post-stabilization provisions in our bill for a simple reason: They realize that coordinating care after a patient is stabilized not only leads to better patient care, it saves money.

Mr. President, I have a letter of support from Kaiser-Permanente which outlines their reasons for supporting our version of the prudent layperson standard. I ask unanimous consent that it be printed in the RECORD.

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

KAISER PERMANENTE,  
Washington, DC, June 24, 1999.

Hon. MAX BAUCUS,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BAUCUS, since 1996, Kaiser Permanente has supported the passage of federal legislation embracing the Prudent Lay Person concept, which requires insurance coverage of emergency services provided to people who reasonably expect they have a life or limb threatening emergency. In connection with this, we support a requirement that the emergency physician or provider communicate with the health plan at the point where the patient becomes stabilized. This will allow for coordination of post-stabilization care for the patient, including further tests and necessary follow-up care. These concepts are contained in several bills currently pending before Congress. I should note, however, that our favoring of this language should not imply endorsement in its entirety of any specific bill that deals with other issues.

As a result of the Balanced Budget Act of 1997 with its ensuing regulations applicable to Medicare + Choice and Medicaid enrollees and the Executive Order applying the President's Advisory Commission's Bill of Rights to all federal employees, approximately 30 million Americans are now the beneficiaries of a financial incentive to emergency departments to communicate with the patient's health plan after the patient is stabilized. This helps to ensure that the patient's care

is appropriate, coordinated and continuous. It is important that emergency departments have the same incentive to coordinate post-stabilization and follow up care for patients who are not federal employees or beneficiaries of Medicare or Medicaid. We have heard of minimal problems implementing this standard in those health plans participating in FEHBP and Medicare + Choice programs. Since a federal standard is in place and working, it is good policy to extend that standard to the general population.

For the past ten years, we have implemented on a voluntary basis a program that embraces these concepts of honoring payments for the care our members receive in non-participating hospital emergency departments up to the point of stabilization. Our Emergency Prospective Review Program has encouraged the treating physicians in such settings to contact our physicians at the earliest opportunity to discuss the need for further care. This has allowed us to make available elements of the patient's medical record pertinent to the problem at hand and to coordinate on-going care as well as the transfer of the patient back to his/her own medical team at one of our facilities. We have found this program to be considerate of the patients' needs, emphasizing both the urgency of treatment for the immediate problem as well as the continuity of high quality care.

This has been a cost-effective practice, affording the patient the highest quality of care in the most appropriate setting. By assuring immediate response to telephone inquiries from non-participating emergency facilities, we have been able to provide substantial assistance to the emergency doctor who otherwise is practicing in an isolated environment without access to the patient's medical record. Our own emergency physicians on the telephone have offered peer consultations provisionally approved coverage for urgently needed tests and treatment, arranged for the coordination of follow up care, and implemented critical care transport of patients back to our own facilities. Of over two thousand patients transported in this fashion, one third have been discharged to their homes. Without this coordination of care, these patients would have been hospitalized at needless expense.

In summary, this program has served the needs of our patients, the treating emergency physicians, and our own medical care teams, while providing substantial savings in both clinical expense and in administrative hassle over retrospective approval of payment for services provisionally approved through the telephone call. We are strongly in favor of the post-stabilization coordination provision as an essential element of the emergency access provision of the Patients Bill of Rights.

Sincerely,

DONALD W. PARSONS,  
Associate Executive Director,  
Health Policy Development.

Mr. BAUCUS. Mr. President, I need to point out that this letter doesn't endorse all of the provisions in the Patients' Bill of Rights. However, it strongly supports the post-stabilization provisions in our bill. I'll read a small portion of the letter:

In summary, this program has served the needs of our patients, the treating emergency physicians, and our own medical care teams, while providing substantial savings in both clinical expense and in administrative hassle over retrospective approval of payment for services provisionally approved through the telephone call. We are strongly in favor of the post-stabilization coordination provision as an essential element of the

emergency access provision of the Patients Bill of Rights.

Mr. President, I don't know how you can say it any more clearly than that. Our version of the prudent layperson standard for emergency services is the right one for several reasons:

(1) It's patient-centered; (2) It's comprehensive; (3) It promotes coordination of care with the patient's health plan; (4) It decreases overcrowding in our nation's emergency rooms by requiring timely decisions; (5) And last but not least, it saves money.

Frankly Mr. President, I am puzzled by the fact that my Republican colleagues oppose this language. I can't understand why they oppose extending protection for emergency services to all Americans with health insurance. Shouldn't we do the right thing, and approve the real prudent layperson standard?

I urge my Republican colleagues to allow us to have an open debate on the Patients' Bill of Rights. We need to have this debate. Americans want protections in their health plans. Americans want a system that balances the needs for access, quality, and cost-control for their health care.

I am confident that we will have this debate. The last thing any of us want to do is put up barriers for patients who need medical care during an emergency.

Mr. President, this legislation removes barriers and allows patients to get the care they need, providers to deliver care in a timely fashion, and health plans the opportunity to coordinate care efficiently. I am confident that when we have this debate, we will be able to come together and pass the real prudent layperson standard for emergency services.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from North Dakota is recognized.

#### DEVILS LAKE

Mr. DORGAN. Madam President, I come to the floor today to speak about Devils Lake in North Dakota. Most people don't know about Devils Lake. It is one of only two lakes at the bottom of a closed basin in the entire country. One is the Great Salt Lake, the other is Devils Lake. Devils Lake has a basin about the size of the State of Massachusetts tucked inside the borders of North Dakota.

To set the stage, North Dakota is ten times the size of Massachusetts. Devils Lake has been subject to chronic emergency flooding now for many years. That flooding in Devils Lake over recent years has caused absolute chaos for the folks who live in that region of northeastern North Dakota.

This is a lake that has risen about 25 feet in 7 years. In the past 60 years, it has risen nearly 50 feet. If you were a family living in Minnewaukan, ND, it wasn't too long ago that you lived 7

miles away from a lake. But recently I was standing in Minnewaukan, and the lake is right up to the back yards of that community. In 7 short years, people who lived 7 miles away from the lake now find the lake flooding their property.

The cost of this flooding, in human terms, is massive. The lake continues to rise in a manner that is uncontrolled, and the question for the Corps of Engineers and the Federal Government is: What do we do to respond to the threatening rise of the lake that has occurred in recent years and threatens a fairly large city in North Dakota? It threatens to cut off one region of our state from emergency services and the normal commerce of daily life. It inundates roads, railways and utilities.

In response, over \$300 million has been spent in that region raising roads and relocating people and building dikes—doing all the things necessary to combat the flooding. This is a different kind of flood, unlike a river flood, where we see a picture on television of a swollen river moving very rapidly and causing chaos with houses floating down the river. The lake flooding here has come, and it has stayed, slowly destroying homes and businesses. It is causing major problems.

One of the plans with respect to this Devils Lake flooding has been to build an outlet. We are building dikes to protect cities and protect roads. We are raising roads, using roads as dikes. We are doing all of these things over recent years.

One of the pending proposals is to build an outlet to take a small amount of pressure off the lake. The challenge is that there is no problem-free place to put the water. You could put some of it in the Sheyenne River, which goes down to the Red River and up into Canada. An outlet to the Sheyenne River can provide relief but must be well-managed to avoid causing problems for others. We don't want to solve a problem by creating a problem for others. The question of building an outlet has been a very difficult and sensitive one.

By the same token, most everyone believes it is an emergency and we must use a comprehensive strategy to try to take some pressure off this lake, including upland storage in the upper part of the basin and building an outlet to take some pressure off the lake. However, all of the plans and work to build an outlet have been for naught at this point, because the Corps of Engineers is at odds with itself on the question of whether an outlet should be built.

I came to the Senate floor to put in the RECORD two things. One is a "Draft Summary Document for the Report to Congress on the Emergency Outlet from Devils Lake, North Dakota, to the Sheyenne River, North Dakota." This was prepared by the St. Paul District Office of the Army Corps of Engineers. I requested this be made available to me by the Department of the

Army's Corps of Engineers Division Office in Vicksburg, MS.

Incidentally, Vicksburg, MS, has jurisdiction over North Dakota. Now, Lord only knows how that can happen. Tell me how it makes sense for a general sitting down in Vicksburg, MS, to tell us about lake flooding in North Dakota. But that is the way it is and the way the Corps is organized.

The St. Paul district, which has spent a great deal of time on this issue, prepared this document. I want to read just a bit from the document. The St. Paul district says pointedly that we face emergency conditions. This is the Corps of Engineers, St. Paul office:

Clearly we face emergency situations and we need to proceed.

The St. Paul division further says:

Further study and analysis are not reasonable responses to what is truly an emergency situation. What is required is a proactive, multifaceted emergency flood damage reduction plan to protect not only Devils Lake but the region. The lake is within a single Probable Maximum Flood (PMF) event of overtopping the levees protecting the City of Devils Lake, and for the first time in recorded history, the lake is within single PMF event of spilling into the Sheyenne River . . . Any project that would prevent the natural overflow would be justified by economics and from a human health and safety perspective.

Accordingly, the St. Paul District recommends immediate action leading to the construction of an emergency outlet.

The Mississippi division, which has charge of the St. Paul division, is 1,500 miles away. The general at the Mississippi division and his staff have come up with a completely different perspective. They are farther away, spend far less time on this issue, and know much less about the issue. The Mississippi commander wrote a letter to the North Dakota congressional delegation questioning the summary recommendations of the St. Paul office, which has done all of the work on this issue and whose experts judged there to be an emergency—one that justifies an outlet.

The Vicksburg office in Mississippi says that is not the case at all. They say they don't need an outlet. They say, first of all, they are not certain there is an emergency at all. They say an outlet is not necessary or appropriate. "Of the outlet plans reviewed, none of the outlet plans show benefits exceeding costs."

Incidentally, this computation by the Division "experts" wouldn't meet third grade math standards. They arbitrarily establish costs and benefits, but then leave out some of the real and major benefits. These benefits include, for example, not having to increase roads in order to keep roads open in this basin. Tens and tens and tens of millions of dollars are required to do that. But maybe if you have an outlet you don't have to do that.

The Corps of Engineers Division Office says: That is not the problem or the complication because we have

“principles and guidelines” to use for the computations. So we leave out large categories of costs avoided. Then they say the cost-benefit calculation does not work. The Mississippi division agrees with St. Paul that dikes should be built but only supports building an outlet subject to a favorable analysis.

In fact, the division doesn't believe that an outlet is appropriate.

The St. Paul Corps of Engineers said: Yes to an outlet. They are the ones who know this region. They study it, and are in charge of it. Vicksburg, 1,500 miles away, says no.

When the Corps decided to move its office to Vicksburg, MS, I had a fit. I should have tried to put a wrench in the crankcase then, and I did not do everything I should have done—I admit. It didn't make any sense at all to decide that the Corps of Engineers' headquarters for a region similar to that ought to be in Mississippi, 1,500 miles away.

Here is the evidence. The evidence is that you have the Corps arguing with the Corps. The St. Paul office, which knows the subject best, says: Here is what ought to be done. It is an emergency. We support an outlet for the following reasons. Here is what we ought to do. The folks in Mississippi say: Gee. We don't believe that at all.

The only reason I am putting two documents in the RECORD today by consent—I would like to include in the RECORD the summary document prepared by the St. Paul office of the Corps of Engineers and the letter sent to the congressional delegation by General Anderson, who runs the Vicksburg office of the Corps of Engineers—is that they directly contradict each other. Again, it is the same agency.

Let me use a couple of charts because I think it is useful to see.

This is the level of Devils Lake. You can see what is happening with this lake. This shows 1445.5 feet. It is actually now again up to 1447. So this chart is actually out of date in just a month or two. That chart shows what is happening to this lake.

Actually, the most appropriate chart to show for Devils Lake is a chart that I want to put up. This chart is actually a picture taken of a woman in 1993. If you look carefully, you can see she is standing at the bottom of the telephone pole in the Devils Lake area.

I want to show you where the lake is right now. It is not here. This is also out of date. This is 1445.5. The lake is now 1447 feet. It is above this chart. Here is where this woman would be in the lake at the moment with the lake somewhere around 25 or 30 feet above her head. This picture was taken in 1993.

That will describe to you what has happened here.

I mentioned to you that people who used to live 7 miles away from the lake 7 years ago now have a lake behind their homes threatening their houses. This doesn't happen anywhere else in the country. It happens in the Great

Salt Lake and in Devils Lake. They are the only two closed basins in America in which you have this kind of flooding. The Great Salt Lake threatened a flood in a very dramatic way and receded. But Devils Lake continues to increase.

I want to show you what is happening. Every single year the Corps of Engineers says: Well, we were at 1437 feet, then the height of that lake. There is less than a 3-percent chance that it will increase. It increased up to 1443. Then they said there was a less than a 1-percent chance it would increase once more. Again, it increased up to 1444.7. They said that there was less than a 1-percent chance again, and it may well increase to 1447.5 by the middle part of this summer.

Every single year we are in a wet cycle, and this basin continues to flood and cause chaos for the people of that region.

Here is the cost. Here is what is happening to us and what happens with respect to this flooding.

At some point, this flows naturally across the divide out of the basin with the worst possible quality of water, with dissolved solids that create a terrible quality of water that everyone is afraid of. And it flows naturally across the divide at 1460, down into the Sheyenne River, up the Red River into Canada, causing very significant problems for major population centers.

That is why all of us have to be concerned about this.

Here is what the damages are when you have that kind of flooding. Again, it is not river flooding where a gushing river grabs a house and throws it downstream and you have dramatic pictures. It is a lake that gobbles up a region, people, property, and hope inch by inch.

What is happening is the cumulative damages, as this lake goes up, are massive—about \$300 million to date, and the prospect is much more.

I ask unanimous consent to have printed in the RECORD the document that I asked the Vicksburg office to provide me which reflects the recommendations by the Corps of Engineers at the St. Paul office, and also the document that is offered by the general who is in charge of the Vicksburg office.

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

DRAFT SUMMARY DOCUMENT FOR THE REPORT TO CONGRESS ON THE EMERGENCY OUTLET FROM DEVILS LAKE, ND TO THE SHEYENNE RIVER,

(Prepared by the St. Paul District Office of the Army Corps of Engineers)

SUMMARY DOCUMENT  
EXECUTIVE SUMMARY

Conditions in the Devils Lake basin have changed dramatically. The continued rise of Devils Lake has exacerbated the flooding concern around the lake. The higher lake level has created a situation where a single catastrophic event would overtop the levees protecting the City of Devils Lake and overflow to the Sheyenne River. This has serious

international, regional, and environmental implications. The strategies employed to date cannot be expected to provide a timely solution. Further study and analysis are not reasonable responses to what is truly an emergency situation. What is required is a proactive, multifaceted emergency flood damage reduction plan to protect not only Devils Lake but the region.

*Current lake level situation*

Devils Lake is now at the highest level (elevation 1445.5) in recorded times. Although the lake is a terminal lake, it has naturally spilled to the Sheyenne River several times in geologic history. The last spill was likely 800 to 1200 years ago. The 1999 forecast is for the lake to rise another 2 feet to elevation 1447.5 by August. The 1999 inflow is forecast to be the second largest on record even though the basin had a reasonably mild winter and near normal precipitation this spring. The lake level is extremely sensitive to small climatic shifts, which might be the case given the persistent wet cycle over the last 7 years. The continuing lake rise is necessitating additional emergency flood control measures to protect urban areas and transportation routes.

*Current efforts*

Solving the rising lake problem is not easy, and the pursuit of a single solution offers little hope. Currently, three separate flood damage reduction activities are being pursued—upper basin management, infrastructure protection, and a managed outlet. Numerous entities are pursuing water management measures to reduce runoff and store water in the upper basin. Infrastructure protection is being implemented by local counties and cities, the Federal Highway Administration, the North Dakota Department of Transportation, the Federal Emergency Management Agency (FEMA), the Bureau of Indian Affairs (BIA), the Corps of Engineers, and private citizens. To date, infrastructure protection—raising roads and levees and evacuating structures—has been provided in incremental steps that usually just stay ahead of the steadily rising lake, although in some cases the lake has risen faster than the level of protection.

This year, the Corps of Engineers is completing the final authorized raise of the levees protecting the City of Devils Lake to elevation 1450 with top of levee at 1457. FEMA issued a “Continuous Lake Flooding Waiver” in 1996, 1997, and 1998, which changed their policies to allow for buyouts of properties expected to be affected by the forecasted lake rise. A waiver for 1999 is being sought. Highways 19, 20, 57, and 281 have been or are being raised by the North Dakota Department of Transportation. Emergency actions are being pursued for other communities by the State, counties, and Corps of Engineers. Agencies have worked with the Spirit Lake Tribe to try to protect infrastructure on tribal properties and keep transportation routes to and from the Spirit Lake Reservation open.

In response to the Energy and Water Development Appropriations Acts of 1998/99, the Corps of Engineers is also investigating the possibility of developing an emergency outlet from Devils Lake to the Sheyenne River. That authorization is contingent upon there being an emergency declaration and that the project is technically sound, economically justified, environmentally acceptable, and in compliance with the National Environmental Policy Act (NEPA). There also need to be assurances that the discharges from the outlet will not violate the 1909 Boundary Waters Treaty with Canada. A report to Congress is required on the findings of the outlet investigations, which is the purpose of this document.

*Preliminary report to Congress findings*

The concept of an outlet from Devils Lake has been the subject of several studies. To meet water quality standards in the Sheyenne River and Red River of the North, the only viable plan appeared to be an outlet from the fresher, west end of this saline lake. However, the effectiveness of even a west end outlet is limited because the salinity constrains the rate of releases in order to meet the downstream water quality standards.

A plan developed by the Corps of Engineers in December 1998 indicated that, to be effective in lowering or controlling the rising lake levels while meeting downstream water quality standards, the outlet would have to remove fresh water from the basin before it mixed with Devils Lake water. Studies since December have concentrated on freshwater alternatives that would allow a higher discharge that stays within the water quality and channel capacity constraints on the Sheyenne and Red Rivers.

The constantly changing lake level, flood protection measures, and other circumstances combined with current Corps policies and principles and guidelines have made it challenging and virtually impossible for the hydrologic, economic, and water quality modeling and analysis to keep ahead of events. Consequently, an economically justified solution concentrating on the damages prevented within the basin has been elusive.

Findings from these recent studies indicate that an economically feasible solution cannot be developed using the current economic and hydrologic models. Benefit-cost ratios vary from 0.12 to 0.72 depending on what assumptions for a without-project condition are used. Also, a outlet of 300 cubic feet per second (cfs) has limited effectiveness in terms of reducing peak lake levels, although the maximum drawdown in the lake could be as much as 8 feet. These results, however, do not take into account downstream benefits from an outlet's reduction in the probability, severity, and duration of natural spills to the Sheyenne River.

Of the five separate criteria set forth by Congress for outlet authorization, all but two could be met, assuming satisfactory consultation with the State Department and satisfactory completion of the NEPA process. The current analysis shows that economic feasibility is lacking, and due to the extremely controversial nature of the emergency outlet and many outspoken opponents, a consensus on environmental acceptability would be extremely difficult to achieve.

*Reframed problem*

With the release of the April 1999 forecast by the National Weather Service (NWS), the flooding problem has changed from protecting the properties around the lake to also protecting the region from a natural overflow from Devils Lake to the Sheyenne River. The lake is within a single Probable Maximum Flood (PMF) event of overtopping the levees protecting the City of Devils Lake and, for the first time in recorded history, the lake is within a single PMF event of spilling to the Sheyenne River.

A natural overflow to the Sheyenne River could cause catastrophic flooding and water quality effects for residents along the Sheyenne and Red Rivers. Ecosystem impacts of a prolonged spill would be devastating. Computer simulations show that an overflow could exceed the Sheyenne River's channel capacity by a factor of more than two and the river's sulfate standard by a factor of more than seven. In addition, should the water flow out naturally, erosion would cut into the divide and increase the discharge and downstream effects even further.

Although, the downstream damages have not been quantified, it is expected that any project that would prevent the natural overflow would be justified by economics and from a human health and safety perspective. The problem now becomes one of dealing with the emergency in time to allow for final design and implementation of a plan before it is too late. To determine the urgency of taking action, the Corps of Engineers analyzed when action would be needed to prevent a natural overflow to the Sheyenne River assuming a continuation of the average net inflow to the lake over the last 7 years and assuming a 2-year construction period. Using this approach, construction should have begun at lake elevation 1441.8 to prevent a PMF from overflowing naturally and at 1451.3 to prevent a natural spill from a Standard Project Flood (SPF). To prevent overtopping of the City of Devils Lake levee system by an SPF, construction would need to begin at lake elevation 1448.0, 0.5 foot above the 1999 forecast lake level. This indicates that plans and specifications for both an outlet and a 3-foot raise of the city's levee should begin immediately to allow for a construction start early in 2000.

To demonstrate how quickly the situation is deteriorating, in February 1999, the Corps of Engineers was working on a plan to divert water from Devils Lake to the Stump Lakes. This plan made sense on the basis of the NWS's initial forecast of a 1446.0 peak lake level. Using the Stump Lakes' storage could limit Devils Lake's near-term rise and buy time to deal with the emergency outlet situation. However, at the NWS's 9 April 1999 revised forecast for a peak lake level of 1447.5, Devils Lake will begin a natural spill to the Stump Lakes, and if Devils Lake continues to rise next year, implementation of this plan may not be a prudent or practical option. Having possibly missed the window of opportunity for a diversion to Stump Lake emphasizes how important it is not to miss the window of opportunity for an emergency outlet that might prevent the lake from overtopping the city's levee or spilling uncontrolled to the Sheyenne River.

*Report to Congress*

This summary report to Congress has been prepared to present the most recent findings regarding the emergency outlet to the Sheyenne River and to discuss the changing conditions at Devils Lake that warrant a new fast-track approach. Hope, incremental solutions, and constrained measures are no longer an acceptable course of action. The report proposes a solution and a timetable capable of dealing with this evolving emergency situation; details are being worked out. The plan would involve six actions:

Building a west-end outlet with a discharge rate between 500 and 600 cfs to help prevent lake rises; however, this outlet would not be capable of keeping up with inflow from an extreme event.

Raising the height of the City of Devils Lake levee.

Developing a contingency plan for an emergency spillway consisting of a controlled and armored outlet from the east end of Devils Lake into the Sheyenne River to prevent a natural overflow from eroding and causing a catastrophic spill.

Revising Public Law 84-99 Flood and Coastal Stream Emergency Act policies to better deal with the flooding problems on the Spirit Lake Reservation.

Continuing emergency actions at Church's Ferry, Minnewaukan, and other communities within the Devils Lake basin on an as-needed basis.

Mitigating downstream flooding caused by operation of the outlet.

By implementing the above actions, the risk of the catastrophic damages to the Dev-

ils Lake region as well as the risk of significant damages along the Sheyenne and Red Rivers would be substantially reduced. If no action is taken, the decision to accept the consequences is implicit. Further study and analysis is not considered an appropriate response to this emergency situation.

*Where do we go from here*

The resources of local interests are exhausted from 7 straight years of devastating floods in the Devils Lake basin. The local interests are tired of worrying about the rising lake, the loss of property, the evacuation of their neighbors, and the uncertainty of getting a solution through normal channels. They are proactively pushing for an answer, and they recently passed a resolution supporting local construction of an east-end spillway.

The North Dakota Congressional Delegation and the Governor consider Devils Lake to be one of the most important issues in the State and are working hard to try to solve the Devils Lake problem. The Corps of Engineers role has been to build levees, to protect urban areas, and to study the problem and a possible outlet. But the focus has been on solving the internal flood problem to the Devils Lake basin. Now, with a natural spill to the Sheyenne River being a statistical reality, the focus must change to do what is necessary to protect the region from a disaster by treating the situation as a real emergency.

We first need to use latitude that the Corps of Engineers already has to develop plans and specifications for an outlet, a levee raise, a contingency plan for an emergency spillway, and protection measures for each community around the lake. Second, we need to use the Corps of Engineers emergency authorities under Public Law 84-99 to start construction of the levee raise and community protection measures as well as the west end emergency outlet using the shortest possible implementation methods. We also need to consult with the Council on Environmental Quality regarding concurrent compliance with NEPA. In addition, coordination between the State Department and the International Joint Commission regarding compliance with the Boundary Waters Treaty of 1909 should begin immediately.

DEPARTMENT OF THE ARMY, MISSISSIPPI VALLEY DIVISION, CORPS OF ENGINEERS,

Vicksburg, Ms, June 17, 1999.

Hon. BYRON L. DORGAN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DORGAN: This is in response to your letter dated June 10, 1999, concerning an outlet for Devils Lake. I have sent this same response to Senator Conrad, Representative Pomeroy, and Governor Schafer. The Corps recognizes that emergency conditions exist within the Devils Lake area. We will continue to respond, to the limit of our authority, to minimize damages within the basin. While I understand your concern and frustration in finding a timely remedy for this rising lake, I have not reached a conclusion that an outlet is a necessary or appropriate solution to the recent rise of water in Devils Lake.

Our analyses and my recommendations will be contained in an Interim Report to Congress that will be completed by St. Paul District and submitted in mid-July for Headquarters, U.S. Army Corps of Engineers and the Assistant Secretary of the Army for Civil Works' review and approval. For your convenience, I have enclosed a copy of my recommendations. I have recommended that we complete the Final Report to Congress, which will include analyses of several alternatives, including outlet plans. One of those

plans will have an objective of holding the lake at elevation 1454. The Final Report to Congress will contain a fully coordinated Environmental Impact Statement. It will also address the other criteria of the Energy and Water Development Appropriations Acts of 1998 and 1999.

The recently completed Technical Report is the product of a joint Division and District team that looked into the timing and consequences of an uncontrolled overflow from Devils Lake into the Sheyenne River. Due to time constraints, that report relied heavily on the data and analyses contained in the Limits Study completed by St. Paul District in 1998. The Technical Report did not analyze the benefits of lowering the lake. There would be minor benefits from the re-emergence of some of the abandoned secondary roads, but since they were not considered in the Limits Study, these benefits were not included. Some benefits would also result from return of submerged agricultural lands to productivity. However, in accordance with the Limits Study, we assumed that these benefits would be negated by the salinity of the saturating water, which would preclude an early return to productivity. If all the cropland and fallow acreage between elevations 1440 and 1447 were returned to productivity, the average annual benefits would be about \$1 million.

As to the hydrologic modeling, it is important to note that the inflows were assumed to equal those experienced during the recent wet period from 1993 through 1998. Thus, a high inflow rate to the lake has been assumed in the Technical Report analysis. Even so, this results in the lake taking longer to rise to higher levels than previously estimated because the recent hydrologic modeling results utilized in the Technical Report are based on a more accurate estimate of future evaporation as the lake rises and its surface area becomes much greater.

The analytical tools used in the Devils Lake study are designed specifically for the unique system at Devils Lake. This, unlike a riverine system, has no outlet and the lake levels are not independent of each other from one year to the next. For example, the model used to estimate the probability of future lake levels, given the current level of the lake, is uniquely suited for a closed basin such as Devils Lake. It has limitations in that following the snow melt and spring runoff each year, the probability of future lake levels must be recomputed. This is required because it is not possible to accurately forecast snow pack and spring runoff for the next year, which will produce next year's lake level.

I appreciate your continued interest in this effort and look forward to working together to solve this most unfortunate problem.

Sincerely,

PHILLIP R. ANDERSON,  
Major General, U.S. Army,  
Division Engineer.

Enclosure.

#### RECOMMENDATIONS

1. Establish six (6) feet of freeboard as design standard for advance measures on Devils Lake.
2. Immediately proceed with necessary reports to include NEPA compliance and PCA Amendment to raise Devils Lake Levee to TOL 1460.
3. Following completion of necessary reports and PCA, raise Devils Lake levee to TOL 1460.
4. Complete Interim Report to Congress within 30 days for submittal to HQUSACE and ASA(CW). Interim Report will target holding lake level at elevation 1454 or lower.
5. Complete Final Report to Congress with analyses of several alternatives, including

outlet plans. One of those plans will have as an objective holding the lake to elevation 1454. The Final Report to Congress will include a fully coordinated Environmental Impact Statement. The Report to Congress will also address the other criteria of the Energy and Water Development Appropriations Acts, 1998 and 1999. Subject to analyses favorable to an outlet, plan completion of the Report to Congress to allow initiation of P&S if the lake approaches elevation 1452 (about 2005) and construction if the lake approaches elevation 1453 (about 2006).

6. Continue to define trigger points for other actions around the lake. Provide incremental protection for Churchs Ferry, Minnewaukan, Spirit Lake Nation, and other communities in accordance with PL 84-99 and in coordination with local, State and other Federal interests.

Mr. DORGAN. Madam President, I see the Senator from Mississippi, Mr. COCHRAN, is on the floor. I don't know whether he is prepared to call up the bill or speak on the bill. If not, I was going to speak for an additional 5 minutes, but I certainly don't have to do that. I will defer at this point, if the Senator from Mississippi is ready to take up the bill.

#### EXTENSION OF MORNING BUSINESS

Mr. COCHRAN. Madam President, if the Senator will yield, I have been told that it has been cleared on both sides of the aisle to continue morning business until 3:45 under the same terms with equal division of time between both sides.

I ask that we extend by unanimous consent morning business until 3:45 p.m.

THE PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### INTEREST RATES

Mr. DORGAN. Madam President, if the Senator from Mississippi is prepared to speak on something, I would be happy to defer. I want to speak for 5 minutes on something that is going to happen, perhaps, in a day or so. I have spoken about this a great deal. That is the question of interest rates and the Federal Reserve Board that will be meeting this week.

We are told that the Federal Reserve Board will almost certainly increase interest rates later this week. I thought it would be interesting to include in a discussion on the floor an analysis of what has happened to the rate of inflation in this country.

Interest rates are still at a rather high rate after adjusting for inflation. The economic rent for money is still very high given the historic American standards. The inflation rate—especially the core inflation rate—has dropped very dramatically in recent years. Incidentally, despite all the predictions by all of the best economists at the Fed and elsewhere, they used to say if you penetrate through 6 percent unemployment you clearly have massive inflation problems. You just can't

have low unemployment and low inflation.

The economy, of course, confounded all of them. I think part of the reason was the models are all wrong. The models reflect traditional economic theory, and that doesn't account for the global economy in which producers produce anywhere they want in the world at lower costs and, therefore, put downward pressure on wages in the industrialized countries. But despite that, even if the models are wrong, what has happened is that as unemployment has reduced in this country and come down rather dramatically over the years, so too has inflation.

Looking at the rates of inflation, the Consumer Price Index, going back to 1990, we were at 6 percent, then down to just over 3 percent, under 3 percent, and down under 2 percent. The fact is inflation is well under control. The downward pressures that the global economy has put on wages in this country, I think, will continue to keep the rate of inflation well under control.

The Federal Reserve Board has a different set of circumstances it will evaluate. The Federal Reserve Board is an interesting board. It was created in the nineteen-teens. President Wilson and those involved promised the country: We are not and will not ever create a strong central bank. We just won't do that.

For many years, of course, the Fed has had a central banking function that has been enormously strong, and largely unaccountable. Some people think that is a virtue to be unaccountable to anything or anyone else in the country so it can run monetary policy as it sees fit, unlike others who are involved in the executive and legislative branch running fiscal policy.

The Federal Reserve Board is made up of a Board of Governors. We have one seat vacant. We have one seat that is being vacated. It is also joined in the Open Market Committee by a rotating group of members of the presidents of the regional Federal Reserve banks. The presidents of the Federal Reserve banks are hired and retained by their boards of directors who are their bankers in their regions. Despite the fact they are not confirmed by anyone and are accountable only to the bankers and boards of directors in their region, they come to town on a rotating basis with the Board of Governors' to vote on interest rate policy.

The Fed will probably, the day after tomorrow, decide it should increase short-term interest rates again. I don't agree with that. I think it is a terrible decision to make. I don't think any evidence that justifies a hike in rates. Some of my colleagues come to the floor and say: What are you talking about? Mr. Greenspan ought to be credited for the great economy.

In my opinion, this nation's economic performance—if you review the record—is in spite of the estimates by Mr. Greenspan and the Federal Reserve Board. They insisted we could not

pierce 6-percent unemployment without having a rekindling of inflation. They were wrong. The unemployment rate has remained below 6-percent for nearly five years with low inflation.

Now the Fed will say it has finally seen a demon in a closet somewhere called inflation that they can use to justify increasing interest rates. I think they are wrong. The American people, and especially producers, are already paying a higher economic rent for money than is currently warranted, given the core rate of inflation.

Organizations such as the National Association of Manufacturers believe it is not appropriate to have the Federal Reserve Board once again increase interest rates. The National Association of Manufacturers sent a fax sheet last Friday to 535 Members of the House and the Senate detailing why they think interest rates are already high enough and that an increase in the rates is not justified in light of an already slowing economy.

I happen to agree with that; I know others do not. I also happen to think the Federal Reserve Board and these Members ought to have some basic accountability. We ought to at least give them credit if you think they have done a wonderful job. Here are their names, addresses, pedigrees, and grey suits. Here are their salaries.

If you think, however, they are pursuing an unreasonably high interest rate policy, given the rate of inflation, here is who they are. Here is how much money they make. Here is who the regional Fed bank board of directors have appointed to be in charge of public policy. They come on a rotating basis, galloping into Washington, DC, shutting their large oak doors and make a decision on behalf of America. They will decide they think interest rates aren't high enough.

They have decided for a long while that too many people were working in this country—a decision I did not quite understand. They serve their own constituents; their constituents are their member banks. Perhaps some day we can have a debate about monetary policy in this Senate. A century ago it used to be debated in barber shops and bars.

Not too long ago, I studied money and banking in graduate school. Lyndon Johnson was President and William McChesney Martin was head of the Federal Reserve Board. He was going to increase interest rates by one-quarter of 1 percent. Lyndon Johnson sent for him to come down to the ranch in the Perales in Texas for a barbecue. He put his arms around him and almost squeezed barbecue juice over that fellow—all over one-quarter of 1 percent.

Now it is not a big deal. The Fed shuts their door and everybody says: Hosanna—whatever the Fed thinks is what the economic doctrine ought to be.

Not with me. I think there is no justification with respect to the rate of

inflation for the Fed to put this additional charge on American producers or the American people. When the Fed meets this week behind closed doors—and this is who they are, where they live, how much money they make—give them credit or blame them, depending on your economic doctrine.

My policy is interest rates are higher than is justified, or higher than justified at this point, given the rate of inflation in this country. The economic rent now charged for money exceeds the economic rent by historical standards over a long period of time. For the Fed to shut its doors and decide the economic rent ought to be higher, in my judgment, is fundamentally wrong.

That is probably a minority view these days, given the reverence for Fed policy, but it is at least therapeutic for me to say it on a Monday, preceding the Fed's meeting. If they increase interest rates at their meeting this week, I will come back with more to say. I hope perhaps they will surprise me and others and decide there is no data to justify an increase in interest rates given the rate of inflation in our economy today.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Texas is recognized.

#### HEALTH CARE

Mr. GRAMM. Madam President, we have had a health care debate for the last couple of weeks. The problem is that we are on appropriations bills. We are trying to pass a bill that will help stabilize the condition of farms and ranches all over America.

However, our colleagues on the Democrat side of the aisle have seemed determined to talk about health care. I will talk about health care today.

I begin by saying, first of all, this is not the beginning of the health care debate. Here are some bills we have debated on health care since President Clinton has been in office. This is the Clinton health care bill. We were told in 1993 there was a crisis in America and we needed to deal with it. The way to deal with it was setting up health care collectives where every American would be forced to buy their health care from one in their geographic region that would be set up with a local collective leader, appointed by the Government. Then all the doctors would work for this health care collective and the Government from Washington would issue mandates.

Then people such as myself said that this is a terrible loss of freedom. When you adopt the Clinton health care bill that I have on the desk, when my mama is sick, she will end up talking to a bureaucrat instead of a doctor. We were told by Senator KENNEDY and by President Clinton we have to give up this freedom because we have 30 million American families who have no health insurance.

So in 1993, we were told if we would pass these bills and let Government

run the health care system, if we would force every American into a health care collective where Government could run it efficiently and where Government could guarantee our health care, that we would lose some freedom, but we would deal with the problem of lack of coverage. We were told that the problem in 1993 was access.

We had a big debate. At one point 82 percent of the American people thought these health care collectives were a great idea. Finally, a few Members of Congress stood up and said, "Over my cold, dead political body." It was like somebody had taken a pin and stuck it in a big, fat inflated balloon. It just went whoosh, and suddenly everybody decided this was not a debate about health care; this was a debate about freedom.

The reason I go back to this history is two things. First of all, please remember when we are debating the so-called Health Care Bill of Rights, it has the same authors who wrote the Clinton health care bill setting up health care collectives. They have not changed their minds about what kind of American health care they want. They really believe the Government knows best. They really believe if the Government ran the health care system that everybody could have access and everything would be better because the Government, through these health care collectives, could make decisions for us and we are basically ignorant people and we do not know how to make decisions for ourselves. This was and is still their goal.

We defeated the Clinton health care bill because the American people decided it may have been Senator KENNEDY's goal, it may have been Bill Clinton's goal, but it was not their goal. In fact, I would have to say that during the months I debated this bill by talking about cost and about efficiency, it was similar to throwing rocks at a tank. But suddenly when the issue changed to freedom and the right to chose, we blew the tank up.

The same people who several years ago said give up your freedom because the problem is access changed their minds once we defeated them. Now they have a new health care bill they call the Patients' Bill of Rights. Oh, it does have something I guess you could call rights. Let me explain the basic problem and then I want to explain what they call rights and then I want to explain what I call rights and what I think Main Street America would call rights.

Here is the problem in a nutshell. First of all, having spent 2 years trying to sell us on the idea we should give up our freedom to get access, they now say: Access is not a problem. Forget the 30 million people who do not have health insurance. In fact, Senator KENNEDY's bill would take health insurance away from another 1.4 million Americans by driving up costs. These are estimates by the Congressional Budget Office. For the people who did not lose

their health insurance, they would pay \$57.2 billion more in costs. And by losing their health insurance—by the way, that would mean next year, if we pass the Kennedy health care bill this year, there would be 150,220 fewer breast examinations given to people who might have breast cancer; it would mean there would be 42,194 fewer mammograms; it would mean there would be 107,628 fewer Pap tests; it means there would be 18,458 fewer screenings for prostate cancer.

When I am saying Senator KENNEDY's bill, by the CBO estimates, would take insurance away from 1.4 million people, and for the people who got to keep their insurance because they had enough income, it would cost them \$57.2 million, don't think I am just talking about money. Don't think I am just talking about a piece of paper that says "Insurance Policy." I am talking about breast examinations, mammograms, Pap tests, and prostate screenings. I am talking about lives. I am talking about families. I am talking about your mama. I am talking about people you care about. This is a big issue. It is an important issue.

What is the problem that Senator KENNEDY wants, or tells us he wants, to deal with this year. The problem several years ago was too much freedom, and we had to get people in these health care collectives where Government could provide health care. Now the problem is the private HMOs, after which these Government collectives were modeled, are not giving people enough choices. The same things the Kennedy bill denied when it was the Clinton health care bill, such as the right to sue the Government when it was providing health care, now, all of a sudden, Senator KENNEDY wants to give you the right to sue your doctor. So under the Kennedy plan, if your baby is sick and running a 104 fever, you may not be able to get a doctor, but you can sue. For most people, that is not what they want. But it is interesting that Senator KENNEDY, who denied you the right to sue when he was going to let Government run the health care system, now is willing to attack the private sector and to expand lawsuits.

What does he claim he wants to deal with? What he claims he wants to deal with is the following problem. People join HMOs to try to hold down medical costs. You have two people who are working, they have three children, they are trying to make ends meet in their family, they are sitting down the first day of the month at the kitchen table writing those checks, trying to figure out how they are going to pay the bills. So they join an HMO because it is cheaper. The one thing they are very much unhappy about is that the HMO too often gets in between them and their doctor.

Let me just do a little analogy, if I may. It is similar to going into the examination room with your doctor—even with your doctor you feel a little bit uncomfortable taking off your

clothes; everybody has had that experience. But with an HMO it is almost like the HMO gatekeeper is in the examination room with you. What you really want is to get him out of the room and leave you just with your doctor. What you want is what we show here—if you will just forget the symbols for a minute and just look at this stethoscope—what you want is you at one end of the stethoscope and your doctor's ears at the other end and you want to get any HMO gatekeeper out of the examining room.

Senator KENNEDY looks at this problem and here is his solution. His solution to the problem is: OK, you are unhappy because you are in the examining room and you have this gatekeeper in there with you and your doctor. Here is how he solves the problem: He solves the problem by saying, OK, you have your doctor in there, you have your HMO in there, and then what he calls your rights—his Patients' Bill of Rights—your right is not to get the gatekeeper from the HMO out of the examining room. That is not your right. Your right is to have a Government bureaucrat join the HMO gatekeeper and your doctor in the examining room with you, and then to have a lawyer join the Government bureaucrat who joins the HMO gatekeeper in getting between you and your doctor.

So Senator KENNEDY's solution to your problem is he puts two more people in the examining room with you. What kind of freedom does he give you? It is an interesting concept of freedom. I do not want to sound too partisan, but it sure defines the difference between the two parties. Freedom to Senator KENNEDY is having a Government bureaucrat who is there who might take your side. Freedom to Senator KENNEDY is freedom to hire a lawyer and sue somebody.

That is not the freedom most Americans are talking about when they talk about freedom. Freedom is the right to choose. Freedom is the right to fire your HMO. Freedom is the right to make your own decisions. That is what freedom is about. This so-called Kennedy Patients' Bill of Rights may be about rights, but it is not about freedom.

The Republican alternative, which we would like to debate and hope to adopt—in fact, to facilitate the debate, our leader has suggested over and over the most eminently reasonable proposal I can imagine. The eminently reasonable proposal is, let the Democrats write the best bill they can write, where they pick exactly the bureaucrat they want who will be there with the gatekeeper in the examining room with you, and then set up the system where you can hire the best lawyer you want to be there, all of them listening to your heartbeat with your doctor—the bureaucrat ready to regulate and the lawyer ready to sue. Let them write the best program they can write, and let us write our best program, and then let's put them before the Senate and let Members choose.

Our Democrat colleagues do not want to do that because they know what will happen. They know that ours will be chosen. Now we have spent weeks and weeks fooling around with this thing.

To get to the point I want to make, because I know our leader is coming over in a minute to start the debate, the Democrat bill is not what people want. This is not freedom. What people want is the right to fire their doctor, if they want to fire their doctor, to fire their HMO, if they want to fire their HMO, and choose for themselves. On a dark night when their baby has a 104-degree fever, they do not want to be given the freedom to call a lawyer, they want to be given the freedom to call a doctor. What good does calling a lawyer do after the fact? They want the ability to call a doctor to get the best medical care they can for their child.

Our bill goes back to this chart. That is, there are two people in the examining room, and you choose to put both of them there under our bill. No. 1, you choose to put yourself there; and, No. 2, you choose the doctor who is in the examining room with you.

How does it work? Under our bill, we give people freedom. We give people the right to choose. One of the choices—and I can go through many provisions of our bill. I am just going through one today, and it has to do with medical savings accounts.

When we first started debating medical savings accounts, a lot of our Democrat colleagues were for them, but now that they understand them, they hate them, and they hate them because they empower people. They empower mothers and they empower fathers to make decisions rather than governments or HMO's.

This is how it works. You have a choice, and one of the choices you can exercise is to set up a medical savings account. You would buy an insurance policy, and you would choose that insurance policy from the company you want to provide the services. It would guarantee your medical expenses beyond, say, \$3,000 of expenditures, so that if somebody gets really sick, you have an insurance policy. But then you and your employee would together over time put \$3,000 into a medical savings account, and that money would belong to you.

Each year, if you had medical expenses, you could spend it out of the medical savings account, where you choose how to spend it on health care and who provides the service, and if at the end of the year you have not spent the money, it belongs to you. So you have an incentive to be cost conscious and efficient and to have a stake in your health care system. But also, you have the right to choose.

Here is how Senator KENNEDY's plan works. Under his plan—and let me take the Washington phone book because it is on top—under his plan, you have total freedom to look under "lawyer" and hire any lawyer you want to sue,

but you do not have the total freedom to look under "physician" and hire any physician.

Under Senator KENNEDY's plan, assume, to make a long story short, it is 2 o'clock in the morning. My youngest son Jeff, let's say he is 3 years old—actually he is 22 now, but he was 3—and let's say he has a 103-degree fever. I am never spooked fever until when I see it in my own children. When my children are sick, like any father, I begin to get nervous.

Under Senator KENNEDY's plan, I get out the telephone book and I look under "physician." I am not interested in a lawyer. A lawyer cannot do me any good. If I do not get help quickly, I may want to look up and call a preacher. I figure he might do me good, but a lawyer is not going to do me any good.

Under Senator KENNEDY's plan, I get out the phone book and look up "physician" and "services." Under his plan, I have to call people up and say: I know it is 2 o'clock in the morning, but I am in such and such HMO. Are you a member of my network? Do you participate in the program I participate in? They may or they may not. Most of them do not. In fact, if one goes down the list and picks the biggest network available in Washington, DC, only a very small fraction of the doctors listed in the phone book are members of that network.

How does our plan work? My wife and I have put money into our medical savings account. We can have it in one of three forms. We can do it with a checking account. This is an actual medical savings account program by Golden Rule Insurance. They give you a checking account, out of which you pay medical bills.

This card is through Mellon Bank, and this is a medical savings account. It is a MasterCard.

This is through Visa, and it is a medical savings account from American Health Value.

It is 2 o'clock in the morning, and I have a sick child. Under our plan, I call up and I have to ask only one question: Do you take a check? Do you take MasterCard? Do you take Visa? If he does, that doctor is my doctor.

I picked a page of the phone book and had my trusty aides call. This is on page 1017 of the DC phone book. On page 1017 of the DC phone book, there is not one doctor on that page who will not take a check. There is not one doctor on that page who will not take a MasterCard. There is not one doctor on that page who will not take Visa. In other words, under the Republican plan, if your baby is sick, you can go to any doctor. If your baby is sick, you choose.

What is freedom? Freedom in health care is not the ability to have a Government bureaucrat second-guess the HMO which is second-guessing your doctor. That is not what freedom is about. Freedom is not being able to have a lawyer who can sue the HMO

which is second-guessing the doctor and sue your doctor. That is not what freedom is about.

Freedom is about the ability to fire your HMO. Freedom is about the ability to choose. Why don't we have a situation where we make everybody go to one kind of grocery store and we have the Government regulate it? We can set up the ability to sue them. We do not do that because, basically, it does not work. That is how we run Government, and that is why it works so poorly.

If a grocery store does not sell what I like, I do not go there. If people do not clean my shirts or if the gas I put in the car makes it run poorly, I go to another station and buy another kind of gasoline. All through my life I exercise my freedom to choose. What the Republican plan brings to health care is the freedom to choose.

We have gone so far down this road, where we are making American health care look like this, that even our hometown doctors are talking about joining labor unions because they want somebody to help them negotiate with the bureaucrat, they want somebody to help them negotiate with the HMO, and they want some ability to protect themselves from lawsuits.

Is that what we want in American health care? I don't think so. I think we want freedom. We want people to have the right to choose. What our bill does is do that. It gives you an opportunity to hire anybody you want to hire, to pick up any phone book in any city—I have here a phone book from Atlanta, GA. Again, you open up the part of the phone book that has to do with the listing of physicians, and any time you pick up the phone, when you have a medical savings account, you can say: Do you take a check? Do you take MasterCard? Do you take Visa? If they do, you are in.

Under our bill, you do not find yourself without health care because you are a member of some medical group in Washington but you happen to be in Atlanta when you get sick. Under our plan, the basic currency we use, which is U.S. currency, is taken everywhere.

So that is the choice I think people want. This Democrat bill is not freedom. It almost abuses the English language to call this a Patients' Bill of Rights.

What kind of right do you have in health care when you are guaranteed the right to pick your own lawyer? The right you want in health care is the right to pick your own doctor. The right you want in health care is the right to pick your hospital. The right to choose in health care is the right to say: I don't like how I am being treated. I don't like the kind of service being provided. I think your cost is too high, I think your quality is too low, and I am going to leave.

Those are not freedoms guaranteed in Senator KENNEDY's Patients' Bill of Rights. His freedoms are: Look, if you are not happy with the quality of serv-

ice, then you wait right here—it may take several hours or you may have to come back on Tuesday at 4 o'clock—but we will have a person from Health and Human Services, and they will listen to you and they will talk to you. If you are not happy, you can meet with them. You will have to sign some forms. They will want to look at your medical records; they will go through them.

It may take weeks and weeks and months and months and years and years, but under Senator KENNEDY's bill you will have these bureaucrats who will be protecting you. That is freedom to Senator KENNEDY.

Then if that fails, Senator KENNEDY said: Well, another freedom you have, you have the freedom to sue.

So let's say you have this terrible health care problem, and you or someone you love may be on the verge of death. What Senator KENNEDY's freedom is that first of all, you can talk to this bureaucrat. You may have to come back next Wednesday. You may have to wait in line. You will have to fill out a lot of forms, but he will be there for you at some point. But if that doesn't work, then you can hire a lawyer, and you can sue. You may die, your loved one may die, but you will have a bureaucrat who will have been there. Maybe they did not make it in time—they meant to be there—but they were there for you. And then you can sue somebody if all that happens. That is what their "freedom" is about.

Our freedom is the right to choose, not a lawyer, but a doctor. If your baby is sick, you have the right to choose the doctor. You can pick up the phone, pick up any Yellow Pages across America, look up in the Yellow Pages under "physician," and then you can pick whoever you want. Under our bill, you can call them up and say: Do you take a check? Do you take MasterCard? Do you take Visa?

If you are covered under our plan, you have the right to choose a program that will let you choose a doctor. So if you think your HMO is doing a good job, you can stay in your HMO. But if you do not think they are doing a good job, you do not have to wait in line to talk to a bureaucrat, you do not have to hire a lawyer, you just simply say to them: You are not doing a good job, and you're fired.

If you like Senator KENNEDY's freedom, you want his bill. If you like our freedom, then you want our bill.

What is real freedom? It is the right to choose.

I thank my colleagues for their patience.

I see the leader is here on the floor. I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Would the Senator from Texas respond to a couple questions?

Mr. GRAMM. Sure I would.

Mr. LOTT. This is the Kennedy-care stethoscope you have there demonstrated on that board?

Mr. GRAMM. If I may, what I first have here is the Kennedy bill that we call the Clinton health care bill which, as our leader will remember, we debated on the floor for 2 years. This bill was their bill where, if we would just force every American to go into a health care purchasing collective and let Government make the decision for them, they were going to guarantee that everybody would have coverage. This is what they wanted 3 years ago. We defeated that because we did not want our mama talking to some bureaucrat when she got sick.

What they want to do is set up a system where if you have a patient who wants to be in the room with their doctor, they find themselves in a room with their doctor and a gatekeeper. Senator KENNEDY would help them by putting a bureaucrat and lawyer in the examining room with them.

Mr. LOTT. Let me ask you the critical question. For the average person out there—senior citizen who is worried about their health care—they are in an HMO or managed care organization and they have a problem and they want that problem dealt with, this very graphically shows what the problem is with the bill. It winds up that a bureaucrat is involved and a lawyer is involved.

What I want to know is, the alternative bill that has been developed by you and Senator NICKLES and Senator COLLINS and Senator SANTORUM, Dr. FRIST, and others, does it provide a way for that patient's problem to be dealt with? Is it a timely issue? Is it dealt with in a way where lawyers are not necessary?

Mr. GRAMM. Let me give you a concrete example. Under the Kennedy bill, if you are not happy with the kind of health care you are getting, you can meet with a Government bureaucrat. You may have come back—

Mr. LOTT. I know that makes everybody feel good.

Mr. GRAMM. You might have to wait in line and fill out a lot of forms, but they will be there, potentially, to help you. Then if that does not happen, you can hire a lawyer, you can choose any lawyer you want, and then you can sue.

Under our bill, what we do is we get rid of this. Under our bill, we give you this. What we let you do, if you are not happy with your HMO, instead of fooling around with a bureaucrat and lawyer, you just simply say to your HMO: You're fired. You set up a medical savings account, where for care beyond \$3,000 a year you have an insurance policy; and then you and your employer put money in, up to \$3,000 a year, out of which you pay medical expenses, through a check. These are various medical savings accounts that are now available through MasterCard and Visa.

So what it enables you to do is, if, at the end of the year, you did not spend the \$3,000, it belongs to you, and you spend it on other things.

Mr. LOTT. You give the patient that choice. They can choose to go with an

MSA account. They can choose the doctor they want.

But again, I want to ask the question, what if that person decides to stay in their managed care organization and a problem develops? Under your bill, there is a review process—an internal and external process—that has a specified period of time in which action has to occur; is that correct?

Mr. GRAMM. That is exactly right. We have a time-sensitive system for decisionmaking. But beyond that, we give the people, if they are not happy with their HMO, the ability to go somewhere else.

As you know, Mr. Leader, nothing makes somebody providing a service do a better job than to know that you can say to them, if they are not doing the job: You're fired.

Mr. LOTT. All right, sir. I just wanted to emphasize those points. You always do an excellent job with your cards and even your unusual stethoscope.

Let me talk about the issue of where we are. First of all, I think it is very important that we in the Senate act to do the people's business. This time of year, every summer, the Senate is very much involved in passing the annual appropriations bills—the bills that do keep the Government going, bills that have many programs that the administration has asked for and, quite frankly, many programs that the American people rely on.

We are going to have four votes this afternoon, trying to bring up four different appropriations bills to try to get the people's business done: the agriculture appropriations bill, the transportation appropriations bill. So many of us in this country depend on an improved transportation infrastructure. I know that is true in my State and a lot of other States. We have dangerous bridges, narrow, two-lane, hilly roads. We have interstate systems that are in disrepair. We have mass transportation systems that need additional systems. All of that is in the transportation appropriations bill, which we hope to have considered in short order by the Senate.

We have the Commerce-State-Justice appropriations bill. This is a bill that has to do with everything from fisheries in this country to foreign policy to law enforcement. Certainly, we need to get that bill up. We need to have all three of those bills done before this week is out.

Another one is the foreign operations appropriations bill, a bill that has been masterfully put together by the members of the appropriations subcommittee in a bipartisan way, under the leadership of Senator MCCONNELL of Kentucky, a bill that probably could go through here on a voice vote. Yet it appears that these appropriations bills are going to be delayed or obstructed.

The one that is presently pending before the Senate, and has been here now for this being the third week, is the agriculture appropriations bill, a bill that

is so important to our farmers in America and important to our consumers and to our children and to the poor people in this country. This bill does provide the farm programs, but it also has programs such as food stamps and school lunches and the Women, Infants, and Children Program. It is the one that determines whether or not in many instances the American people get access to the farm products from our farmers, who are the geniuses of the world in terms of production and what they have done in our lifetime to provide quality high protein food. They have done a magnificent job.

Right now, they have fallen on somewhat hard times. For the second year in a row now we will see a significant downturn in farm production in terms of money that comes to the farmers. This is being brought about by depressed prices, by the fact that we have not been opening up new markets, the fact that we have let countries block our farm products from China to Japan as well as Europe and get away with it. In the case of Europe, they are systematically ignoring WTO decisions with regard to bananas. Now we have the impending problem with beef.

So at a time when our markets are not being expanded and opened up, at a time when prices are depressed, farmers are looking for any sign of hope and encouragement. And yet here we are, for the third week, tangled up with an unrelated issue to agriculture.

This is not a small bill. This is \$60.7 billion for agriculture in America. There is a strong feeling that there is probably going to be a need for additional disaster assistance. I saw where some States right now are looking at another serious drought. You add that on top of depressed prices, declining markets instead of growing markets, and now a drought on top of that, you have the prescription for a disaster.

So we may have to come back and take a look at that later on this year. But farmers need some encouragement right now. They need to know what they can depend on.

The schools need to know what they are going to be able to count on in the next school year that begins in August, by the way, not at the beginning of the next fiscal year. They need to know what they are going to be able to count on.

So we have had this delay because an agreement can't be reached as to how to bring up the Patients' Bill of Rights. Frankly, for 8 months I have been trying to find a way to do just that. I have offered repeated suggestions—the fairest one of all probably just to have a jump ball and say, OK, we will begin here and at a date certain, after a reasonable period of time, we will be through with it. But we tried all kinds of variations.

I read into the RECORD last week the complete unanimous consent agreement I had suggested on Thursday that would have allowed us to bring it up, would have had a reasonable time for

consideration, 2 hours on first-degree amendments, 2 hours on second-degree amendments. I don't know how I could be any fairer. That, too, was rejected.

So I have tried repeatedly to make this happen. Add to that that this is a charade. This is a farce. This is not for real. So not only are the farmers being taken advantage of, they are being played with. They are being laughed at. Every Senator knows, men and women, Republican, Democrat, regardless of region, no amendment that is added from the Patients' Bill of Rights to the agriculture appropriations bill will ever see the light of day. It will be sheared like wool from a sheep before it gets to the conference just the other side of the Rotunda. It will not happen—not the Feinstein amendment, not some other amendment, not the Kennedy alternative. It will not be a part of the agriculture appropriations bill and shouldn't be. It is still legislating on an appropriations bill. It is an unrelated, nongermane amendment that is being insisted on by, I think, really a few on the Democratic side of the aisle.

So this is a farce, ladies and gentlemen. We should no longer allow the people's business to be shunted aside and delayed and obstructed and held up by this kind of activity. We should treat it for what it is. It is a charade. It is a farce. But it is not a happy one. It is a sad one.

I encourage my colleagues today on both sides of the aisle, don't be a part of this. We should summarily dismiss as frivolous these amendments that are being added or offered to be added to this agriculture appropriations bill. Maybe they are substantive. Maybe some of them have merit. But to offer them here, who are we kidding? Nobody, nobody in this room. I think most Americans know this is not a serious effort.

Can we work out a way, an agreement to bring this up for a reasonable period of time and still get our work done in terms of the appropriations bills and other legislation that is pending, some of it in conference, some of it waiting to come before the Senate? The bankruptcy reform package is waiting for action. The flag burning constitutional amendment has been passed by the House of Representatives. Yet we are over here tangled up in a procedural activity.

I think we should not be a part of that. I am going to insist that we dismiss it and that we move on and get our work done. I really hope and reach out to the leadership on the other side of the aisle and say: Let's see if we can't find a way to deal with this at another time in a way that is fair to all sides. Let's go on and pass these appropriations bills. Several of them that I have not even mentioned here today we could probably move through very quickly, in a limited period of time, with limited amendments, because there are just not going to be a lot of amendments offered, and do some of the other business, including the nomi-

nations that we all know should be at least given an opportunity to be considered.

I just wanted to lay that marker down and get that word firmly planted in our lexicon. This procedure is a farce. It will not happen.

And by the way, just to make sure I was on totally safe ground, it always behooves one to check with the appropriations chairman to make sure he agrees. He agrees. He obviously is offended and upset that his bills out of the Appropriations Committee are being delayed, and he agrees we should not have these legislative matters, these extraneous matters being used to delay very important appropriations bills so that we can get our work done.

By the way, the President is out there saying: Let's work together. Great, let's do. I am ready for deeds, not words. I want us to have Medicare reform, but the commission, the bipartisan commission's work was basically rejected. The President didn't allow one of his nominees of the commission to vote for it. Yet we had Democrats and Republicans who were for it. The Finance Committee, I believe, is willing to move forward in a constructive way. If he wants to work on some of these issues, we would certainly be glad to find the time to do it.

Madam 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. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Madam President, what is the pending business?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. The Senate will resume consideration of S. 1233.

The legislative clerk read as follows:

A bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Feinstein Amendment No. 737, to prohibit arbitrary limitation or conditions for the provision of services and to ensure that medical decisions are not made without the best available evidence or information.

The PRESIDING OFFICER. The Feinstein amendment is the pending business.

AMENDMENT NO. 1103 TO AMENDMENT NO. 737

Mr. LOTT. Madam President, I send a second-degree amendment to the desk to the pending Feinstein amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1103 to amendment No. 737.

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

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with so that I may explain briefly what is in this amendment, and if the Senator from Wisconsin wishes, he can continue the objection. I will clarify it for those who are curious about exactly what that amendment is.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Madam President, I just offered the Kennedy health care bill, the identical text of amendment No. 703, which was offered by Senator DORGAN to the agriculture appropriations bill. I hope that our colleagues on the other side of the aisle will let this go forward so that we can take appropriate action.

I wanted to explain that. If the Senator insists, the reading can continue.

Mr. FEINGOLD. I thank the majority leader. I have no objection at this point.

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

Mr. LOTT. Madam President, again, I did offer the Kennedy health care bill to the agriculture appropriations bill. My thinking is that rather than doing this piecemeal, let's go ahead and deal with the overall Democrat bill dealing with the Patients' Bill of Rights. In order to make sure it is properly considered, I will advocate cloture and I will, in fact, vote for cloture. I think that way we can deal with this issue straight up, not playing around with it.

I emphasize again that this is a farce. I am treating it accordingly. When both sides really want to get serious about sitting down and working out a way to consider this bill separately as a legislative vehicle, I will be glad to do that. But it should not continue to tangle up the appropriations bills. I believe Senator DASCHLE and I really want to get some work done this week for the benefit of the country. I am convinced that he has that intent. By taking this action, I think we can still pass some appropriations bills this week and clear our calendar of a lot of nominations.

## CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the Kennedy amendment to the desk.

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

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 1103 to the Agriculture Appropriations bill:

Senators Trent Lott, Thad Cochran, Ben Nighthorse Campbell, Susan M. Collins, Craig Thomas, Michael D. Crapo, Kay Bailey Hutchison, Bob Bennett, Larry Craig, Connie Mack, Chuck Grassley, Christopher H. Bond, Richard Shelby, Tim Hutchinson, Ted Stevens, and Michael B. Enzi.

Mr. LOTT. Madam President, I know this is an important issue to the minority leader. He will be here shortly. If he wishes, I would be willing to go ahead and have this cloture vote occur as the last vote in the voting sequence that we have stacked this afternoon at 5:30, notwithstanding rule XXII. I am not asking for that right now, but I make that offer to our colleagues. We can vote on that cloture motion this afternoon if they wish, or we can do it tomorrow. But at some point, it will ripen, and we will then have a chance to vote on cloture. I suggest that we actually vote on it.

At this time, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, I have just arrived from Illinois, and I have come at the right moment because we are considering something called cloture in the Senate. The reason you file a motion for cloture—as Senator BYRD knows because he knows the Senate rules better than anyone, and probably wrote most of them—is to bring to an end to debate and to force the Senate to go forward on a vote.

The Republican strategy, as enunciated by Senators LOTT and NICKLES, is to bring an end to this debate. Which debate would they like to see end? The debate about reforming health insurance in America. They do not want us to move forward with amendments pending by Senators FEINSTEIN of California, KENNEDY of Massachusetts, and others, which address the issue of health insurance reform. They do not want to face votes on these amendments. They do not want us to bring the Democratic Patients' Bill of Rights to the floor and ask Members on both sides of the aisle to vote their conscience, up or down, yes or no, on how we can change health insurance in America.

For several days last week, the argument was made that "we don't have time to debate health insurance reform." But as one day flowed into a

second day, and now into another week, we are spending a lot of time on the issue without voting on it. We are spending time finding ways to avoid voting on health insurance reform—a Democratic Patients' Bill of Rights.

Now my Republican colleagues have their own version of the bill and, of course, they are very proud of their version, as we are of ours. We have suggested: Bring your bill to the floor and bring your amendments to the floor. We will bring ours, and then we will assume the role of Senators. We will debate and we will vote. Ultimately, we hope to put together a good bill. But whatever the outcome, we will then go home and explain to the people we represent why we voted one way or another. This is not a radical strategy or policy.

Mr. NICKLES. Will the Senator yield?

Mr. DURBIN. I will yield for a question in a moment, if the Senator will allow me to complete my thought.

What we are suggesting here is reminiscent of what most people expect to occur on the floor of the Senate—that Senators of differing viewpoints come forward and present their points of view and vote on them. We have gone on day after weary day with the Republican leadership trying to find ways to stop us from debating and stop us from voting.

Over this weekend, I made a tour of my State of Illinois, which is a big State. I ran into some people who told me an interesting story about their experience with health care. One group was in a machine shed on a farm near Farmington, IL. About 30 farmers gathered. I asked them about the farm crisis and I asked them about health insurance. They were equally animated on both subjects, concerned about their loss of income and also concerned about the jeopardy they and their families face because of health insurance.

Last weekend, I was in Peoria and I met with Henry Rahn. He raises soybeans and corn. If you go to most Illinois farms, you will find that is the case. He was quoted a price of \$17,000 a year for health insurance for himself and his wife. What really wrangled Mr. Rahn was that in spite of his paying top dollar, the insurance companies were always trying to get out of paying for his health care needs. Recently he suffered a heart attack, and his coverage was threatened when he went to an emergency room because he had not called 24 hours in advance to notify the insurance company.

Another farmer, Bob Zinser—he is a farmer in Peoria and is also a chiropractor—told me in no uncertain terms that the HMO and PPO plans were total garbage. Mr. Zinser says, "It seems like insurance companies have infinite wisdom on what's right and what's wrong."

These farmers I met were angry about how they were treated by insurance companies. They wanted action.

Under the GOP version—the Republican version—of managed care reform,

these farmers I have just spoken about are not protected. They have written a bill which literally leaves behind 115 million Americans and provides no insurance reform. They do some things for small groups. But unlike the Democratic bill, which covers the vast majority of people with health insurance, the Republican bill leaves many behind, including the farmers and other self-employed people I just mentioned.

When I described this to the farmers at the gathering, they couldn't believe it: You are talking about health insurance reform on the floor of the Senate, and yet it won't help us and our families? I said: The Republican version of the bill will not; the Democratic version will.

Last night I flew to the Chicago area and went to Highland Park and met with a cardiologist. His story was chilling. Let me tell you exactly what he told me last night.

He said a patient came to his office—a woman—on Thursday complaining of chest pains. He didn't think she was in an emergency situation but he wanted her to go to the hospital the next day—the next morning—for a catheterization, a very common diagnostic procedure used in cardiology, to determine just what her heart problem might be.

So they called her insurance company, and the insurance company said: No, we will not let her have a catheterization on Friday, because that hospital that you want to send her to is not covered by her health insurance. So the doctor said: What would you have her do? They said: Let us make an appointment for her. We will call on Saturday to see what we can find.

She passed away on Sunday. A decision about a hospital ended up jeopardizing this woman's health and her life.

This doctor said to me: What am I supposed to tell her family?

Think of how vulnerable each and every one of us is, going into a doctor's office hoping to get the very, very best diagnosis or treatment but always wondering if we will be second guessed by some bureaucrat at an insurance company. That is what this debate is all about.

I understand the frustration of the Republican leadership. Those of us on the Democratic side for 2 weeks now have been pressing to bring this issue to the floor. We have said we will take the outcome of the vote, whatever it might be, but let us have this debate. America is looking for us to initiate that debate. But, sadly, there are those on the Republican side who do not want to face these votes. They don't want to have to vote yes or no. They don't want to have to decide between the insurance companies' agenda and the agenda of families across the Nation.

That is a sad commentary on the state of affairs in the Senate, because the men and women I spoke to in that machine shed at the farm in Farmington, IL, and the doctor I spoke with in Highland Park understand full well

that this is an issue that can't be delayed.

There are certainly important bills for us to consider. We have a myriad of important appropriations bills to consider. I hope we can come to them soon. But we have taken the position on the Democratic side that we are only prepared to move to the appropriations bills once we have an agreement from the Republican side that we will debate health insurance reform, we will debate the Patients' Bill of Rights. Unfortunately, as of this moment we do not have that agreement.

There is also a question of accountability. I think this is a bottom line thought: The doctor who told me the story about the woman he wanted to refer for a heart catheterization but was told she couldn't go to the hospital that he wanted and the insurance company would come up with another one, I hope that doctor is never sued by anyone because of that decision. But those things do happen to doctors and hospitals. Despite the fact that the insurance company made the decision—the insurance company took her out of that doctor's care and said she had to go to another hospital—under current law in the United States of America, that health insurance company is protected from liability in court except for the cost of the procedure. If there is suffering, if there is pain, if there is loss of income, or if there is death, the insurance company, having made the decision which it did, will not be held liable.

You say, well, certainly there must be other companies in America which enjoy this kind of special privilege. And the answer is no—not any; none. No other company in America enjoys this protection from liability or enjoys this exemption from accountability like health care insurance companies.

Some on the Republican side have argued, oh, you Democrats just want to bring the health insurance companies in court to make lawyers wealthy. Of course, lawyers would be involved. It would be naive to say they wouldn't be involved. But the bottom line is, if you do not believe that your corporate decision—your insurance company decision—is something you can be held accountable for, how careful will you be? You will make a decision based on the bottom line profit: What is good for my company? How much money will be there at the end of the year? If you make the wrong decision in the interest of the patient, will you be held accountable? Not under the law as written today.

The Democratic Patients' Bill of Rights says no; health insurance companies, as every other company in America, will be held accountable for their conduct. Currently only foreign diplomats and health insurance companies cannot be brought into court in America. We think that should change. When it changes, we think health insurance companies, as in the example I used of the cardiologist, will think

twice: Well, Doctor, perhaps you send that letter for a catheterization at the nearest hospital on Friday morning. No. We will not play with the insurance policy. We will work it out later. Let's take care of her health condition.

But they didn't. They decided, let's stick to the letter of the insurance policy.

How frustrating it is for doctors who face this. The doctors I talk to feel helpless.

You read in the paper last week that the American Medical Association is talking about forming a union—the "International Brotherhood of Physicians" or something. What would bring what is typically viewed as a conservative political group such as the AMA to a moment in time where they have decided they have had enough, that they have no voice when it comes to medical decisions, and they have to come together and bargain collectively with insurance companies?

I will tell you what has brought them to this point—the example that I used, and some others, where they realize that they have been overruled time and time again. They are frustrated. They are angry. That is why they have decided to start exploring the possibility of forming a union.

The message is here, America. This is an issue which cannot wait. When the Republican leadership comes to the floor and accuses us of stalling tactics, we are not trying to stall this process; we on the Democratic side are trying to accelerate this process.

Let's bring this bill to the floor. This is our last week before the Fourth of July recess. Let's dedicate this week to the Patients' Bill of Rights. Let's make sure that when we go home on Independence Day and walk down the parade route, the people we are looking at, who are waving sometimes at us, realize we have done our best, we have done our best to address an issue that is critical to every American.

The Rand study said that 115 million Americans have had a bad experience with a health insurance company or know someone in their family, or close friend, who has. The cases I have cited to you are not isolated examples. The letters stack up in our office from people all across my State of Illinois and all across this Nation. I have been speaking on the floor the last couple of weeks on this issue, and I have started receiving these letters. I have asked people to send letters to me in my office and to tell me about their experience with health insurance.

Every single letter tells the same story—letters where women who have chosen an OB/GYN as their primary care physician, a person they are confident of, a person they want to work with, have been overruled by insurance companies that said: We have a new doctor for you; situations where people, as I described earlier, will go into an emergency room only to learn that they are denied coverage because they picked the wrong hospital or they

didn't call in advance for an emergency room.

Can you imagine, racing to the hospital with a son who has just fallen out of a tree in the backyard, trying to remember the number of the insurance company? Is that the last thing on your mind? It certainly would be on mine. I can remember taking my son to an emergency room when he decided to catch a baseball with his teeth instead of the glove. Those things happen. And you race off to the emergency room. You don't want to fumble in the glove compartment to find the insurance policy. You are worried about that little boy whom you love like everything in this world, and you want to get him to a good doctor as quickly as possible. You don't want to get tangled up in an insurance company bureaucracy.

Many times we find that the people, for example, who need specialists for medical care learn that they are being overruled by insurance companies that say: No; even though a doctor told you you needed a certain specialist, we don't approve of it.

One doctor who kept calling insurance companies and receiving frustrating answers finally asked the clerk on the phone: Are you a doctor? The voice at the insurance company said no.

He said: Are you a nurse? The voice said no.

He then asked: Do you have a college degree? No.

Do you have a high school diploma? Yes.

What qualifies you on the other end of this telephone to overrule me after years of education and medical school? The clerk said: I've got the rules in front of me. They are in writing. They are very clear, and we disagree.

That is what it comes down to. That is how the decisions are made. That is what this debate would be about. The debate will decide how many Americans will be protected by quality health care, debate will decide whether health insurance companies, as every other company in America, can be held accountable in court if they make a decision which takes away the life of a loved one, causes pain or loss of income—decisions as to whether or not medical necessity will rule when doctors make decisions, including the procedure you should have, what emergency room you can use, things that most Americans think are just common sense. That is what this debate would be about.

At 5 o'clock, we will start a series of four cloture votes. It is an effort by the Republican majority to stop this side of the aisle from offering this debate on the floor of the Senate. They are trying to stop this side from amending any bill so we can bring up these issues. They do not want to talk about these issues. They do not want to face these votes. If they can prevail—and on this side of the aisle hope they will not—if they can come up with the requisite votes, they can shut down the debate

and move on to some other issues. If the Republicans are successful in stopping this debate on health insurance reform, they will, as will Senators on this side of the aisle, one day soon have to go home. When they go home, they are going to face families such as those I faced over the weekend, living and dying with this problem every day and every week.

They will have to answer possibly the hardest question posed to any Senator: Why didn't you do something? What stopped you, Senator? Don't you understand? Don't you care about people like us?

That is what it is all about. I say to my friends on the Republican side of the aisle, please join in this debate. Don't be afraid of these votes. Try to look for some opportunities where, frankly, Republicans might find a Democratic amendment they like. I will look for Republican amendments I might like. Let's try to put something together. Let's put politics aside. Let's realize the families across America are not just Democratic families; they are Republican families, Independent families, and families who couldn't give a hoot about politics. But they are hopeful that this system of government and the men and women serving in this Senate care about them, care enough to bring this debate forward.

At 5 o'clock I will vote against the motion for cloture, to keep on the floor this debate on health insurance.

I yield the floor.

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

Mr. BYRD. Madam President, I support the Patients' Bill of Rights.

Let me thank my friend from Illinois, who is one of the newer Members of this body. He has had much experience in the other body. He comes to this body with a tremendously versatile mind. He can speak almost at the drop of a hat. He is very conversant on every subject. He fights today for a cause which is important. I congratulate him. He has been speaking on the floor for several days on this subject. He speaks with great eloquence. I congratulate him and look forward to hearing him on other occasions. I hope in this situation he and we will be successful at some point.

I support the Patients' Bill of Rights. This is important legislation that, if enacted, will provide important protections to the many millions of Americans who receive their health care from managed care companies. It is therefore critically important that the Senate conduct a full debate on this issue. I am saddened that supporters of this legislation have been put in the position of offering this measure to an appropriations bill, thereby temporarily stalling progress on funding programs that are a priority for yet other Americans.

While I consider a vote on the Patients' Bill of Rights imperative in this Congress, I am also very concerned that putting important issues at log-

gerheads with one another may ultimately interfere with the smooth operation of the government. We should all strive to avoid a repeat of the train wreck that resulted in last year's Omnibus Consolidated Appropriations bill. Putting the Senate in the position of having to choose between competing critical needs is a dangerous game that we should not play. It is bad public policy. There is still enough room on the calendar for both a thorough debate on the Patients' Bill of Rights and for timely progress on the important work of passing the Fiscal Year 2000 appropriations bills. I urge the leadership to move forward in a fair manner—to allow this bill to be fully considered and debated, and to let amendments to the Patients' Bill of Rights be called up and debated and voted on—voted up or down or amended again.

Action on the Patients' Bill of Rights has been delayed for too long. As the Congress stalls, problems with managed care companies increase. According to a Kaiser Family Foundation/Harvard University survey, the number of people reporting having problems with their health plan, or who know someone who has had a problem with their health plan, rose from 96 million in 1996 to 115 million in 1998. With 85 percent of all insured employees in managed care plans, this issue is too far-reaching to be delayed.

While managed care has been successful in stemming health care inflation in recent years, it has too often compromised patients' health care needs. Unfortunately and tragically, some health insurers have put saving money ahead of patients' well-being. Instead of patient care, we are getting "investor care," with health plans keeping a constant eye on shareholder profits. Our Patients' Bill of Rights would provide important and necessary protections for families to ensure they get the care they need.

Too often, managed care plans erect barriers that interfere with patients getting the medical services they need when confronted with an emergency. Under this measure, patients do not have to fear that their emergency room care will not be covered if they have reason to believe they need emergency care. They will not have to call for permission first and waste precious time hoping for clearance. Someone who experiences chest pain and believes he or she is having a heart attack should not have to check to see whether the health plan will cover the emergency room care. The "prudent layperson" standard gives patients the ability to seek emergency room care with the assurance that it will be covered.

Comprehensive managed care reform legislation should also provide women in managed care plans important protections. Oftentimes, women use their ob/gyn as their primary care provider. Having managed care plans recognize this fact will eliminate time-consuming and costly administrative barriers women face in getting the care

they need. A woman and her doctor should be able to make the decision, for example, as to how long she needs to stay in the hospital after a mastectomy, not some health plan bureaucrat.

In recent years, health plan coverage of patients' participation in clinical trials has declined. This is a troubling trend. Under S. 6, of which I am a cosponsor, health plans would be required to cover the routine costs associated with a patient's participation in certain clinical trials. This is an important provision because in some cases clinical trials may be the only option for patients who have not responded to conventional treatments.

The Patients' Bill of Rights also has special protections for children's access to care. The bill provides guaranteed access to pediatric specialists. When a child has a chronic condition our bill allows standing referrals to pediatric specialists which eliminates the extra step of seeking the consent of the primary care provider. Under our bill, if a pediatric specialist is not included in the health plan's network, your child would have the right to see a specialist outside the network without having to pay more.

Patients undergoing treatment need to know that, if their doctor is dropped by the health plan or if their employer changes their health plan, they can still see their doctor. S. 6 offers continuity of coverage by requiring a 90-day transition period during which treatment is continued. For example, a terminally ill patient should not have to go through the disruption of changing doctors as that patient faces death.

I have long been concerned about West Virginians' access to health care and, over the years, I have been successful in bringing facilities and technologies to the State to expand my constituents' access to quality care. Marshall University's Rural Health Center; the VA hospitals and clinics; and Mountaineer Doctor Television (MDTV), West Virginia's Statewide telemedicine program, are projects that have broadened West Virginians' ability to receive quality care in West Virginia. As managed care continues to grow in the State, it is important that common-sense protections are in place so that patients can get the care they need.

The Republicans have introduced their own managed care reform legislation in response to the Democrat's Patients' Bill of Rights. But, the Republican plan would leave over 100 million Americans without protection. By applying reforms only to self-funded employer plans, the Republican bill leaves those most in need of protection—people who buy their insurance without the assistance of their employer and those who work for small businesses—out in the cold.

Scope of coverage is not the only weakness of the Republican plan. Even the protections provided to a limited number of Americans under their plan

do not go far enough. While differences exist in the shape and scope of the reform proposals, one thing is clear. There is a crying need in the lives of real Americans for action to address these health care problems. We need a thorough debate, an open debate about this issue, a debate which is not constrained by limits on amendments or by a desire to hold such a critical matter hostage to partisan politics, and we need it now. We also need to move forward on appropriations bills which fund important programs all across the spectrum of American life. I can only hope that reason will prevail in this body, and that we will allow all of these important matters to proceed in a timely and sincere manner as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Madam President, this weekend I traveled across my home State discussing the issues that are before us today, and also had the opportunity to travel into Canada to talk about agriculture, to try to solve some of the problems that face agricultural producers today.

What is happening here is a matter of fact. The hostages are those folks who depend on food stamps, those folks who depend on the WIC Program—young women with children and infants who depend on those nutritional programs.

What is happening is we are trying to do the business of the Nation, and that is funding the programs that Americans want. Yes, agriculture is in tough straits. We have seen in this past year commodity prices dip way below the prices they were during the Great Depression. Yet we expect our agriculture producers to produce. We expect our grocery stores to stay full. We expect to buy those foods in any amount, prepared in any way; to be handy—and they are. This Nation is truly a blessed nation in that we have producers like that.

While I realize the debate on health care is very important, let's not lose sight of the Nation's business. Let's not take our eye off the ball. The Nation's business, first and foremost, is to pass the appropriations bills to fund those Departments and those programs that depend on those bills, and then debate health care or Medicare reform. Nobody on either side of the aisle underestimates the importance of that debate. But the business of the Government is to finance and provide funds for programs so this Nation can operate. That is what is being held hostage.

Madam President, 23 percent of the gross national product depends on agriculture. No other part of the American economy contributes so much to our gross national product. Yet here we stand, talking about an amendment to an agriculture bill that is strong enough to be debated as a stand-alone piece of legislation.

I talk to my farmers in Montana. They want the agriculture appropria-

tions bill passed. In this bill there is research money. In this bill there is money needed to open up export markets, to let agriculture producers take advantage of added value to their own products. It allows them to find niche markets. It allows them to live.

The health care bill has nothing to do with agriculture—nothing. You cannot claim germaneness. You cannot claim anything. I think the health care issue deserves a stand-alone debate, but it should not block the financing of Government programs. That is too important. The lives of too many producers are on the line, as are their farms and their ranches.

We hear complaints all the time about legislation on appropriations bills. In the majority of these cases, the amendments at least have some relationship or some germaneness to the issue at hand. But what significant relationship does a Patients' Bill of Rights have to agricultural production? We should pass the appropriations bills, get them into conference, send them down to the President, and let him sign them. There is ample time left to debate health care in the United States.

My farmers and ranchers are a little bit baffled. They do not have a clue as to what is really happening. I say that somewhat in jest because the majority of them do know what is happening. They are being held hostage. How do I explain to them that the money allocated to programs important to them is being held up entirely for a debate on an issue which should be a stand-alone issue?

Let's pass these appropriations bills. Let's get them out of the way. Let's assure the American people we can do the Nation's business. Let's assure the American farm and ranch people their programs will be passed and financed. Let's tell those who depend on food stamps their money is going to be there. Let's tell the elderly people who depend on Meals on Wheels it is going to be there. Let's tell the young mothers with infants and children who depend on nutritional programs the money will be there.

There is no sickness in the world worse than starvation. Do you want to drive health care costs higher? Then disregard the nutritional programs found in this agricultural appropriations bill. Whom are we hurting? Those who can afford it least. Let's get back on track. My farmers and ranchers are tired of waiting and so are the folks who depend on these programs.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order of the quorum call be rescinded.

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

Mr. REED. Madam President, I ask unanimous consent that the order of the quorum call be rescinded.

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

Mr. REED. I thank the Chair.

Madam President, I want to spend a few moments talking about aspects of the Patients' Bill of Rights, which is an amendment to the agricultural appropriations bill before us this afternoon. We are faced with a very clear choice: Are we going to finally debate and consider in some detail a Patients' Bill of Rights which will give every American a clear opportunity to have the kind of quality health care we all support and we all want them to have, or will we continue to be shut out, will we continue to avoid confronting a critical issue which, to the people of Rhode Island, is probably one of the most critical issues they face.

If one goes to the people in my State and talks to them about their concerns, particularly since there has been an economic revival, a primary concern for them is whether they will have adequate health care for their families and themselves, particularly for their children, when they need it.

One of the aspects of the Democratic bill, which I think is very salutary and commendable, is with regard to accountability. It provides not only for internal and external review, but also for patient advocacy and patient protection.

There are three procedural points that should be included in any Patients' Bill of Rights. First, there has to be clear liability directed against a health plan if they make mistakes in the care of their patients.

One of the great ironies of our system is that physicians can be sued for their malpractice, yet insurance companies are invulnerable to such suits. To put it in balance, since so many health care decisions are now being made not by physicians but by review specialists, accountants, and analysts, the insurance company itself should also be liable for its decisions.

We also have internal and external appeals processes so there is no rush to the courthouse, but an individual can get relief quickly and efficiently for a health plan decision. When people are dealing with their health insurer, all they want is the best care for themselves and their families. They want their medical problems to be resolved, they want access to the specialists they need, and they want the plan to respond to their needs. In fact, they simply want what they paid for.

There is another aspect to consider—that is to help consumers negotiate through the intricate maze of health insurance rules and regulations and to give them the leverage that will level the playing field between health care consumers and the bureaucrats who run health care plans.

Toward that end, Senator WYDEN, Senator WELLSTONE, and I have introduced a separate legislation which

would provide for a health care consumer assistance, or ombudsman program, in every State. It would establish a mechanism whereby States would be able to provide information and counseling services to assist health care consumers.

This provision has been incorporated in the Patients' Bill of Rights, and it is a necessary provision because people are not getting the information they need to make the health care system work effectively for them. For instance, studies show that the existing appeals process, both internal and external, are being underutilized. In fact, there is a very deep suspicion, not only in my mind but the minds of many, that health plans make it almost impossible to get adequate review.

They put up procedural hurdles. They have set up a series of barriers that leave the average consumer without any redress and, as a result, they become frustrated and give up.

Another suspicion which undermines the faith in the managed care industry is that this frustration is a deliberate, calculated attempt by companies to reduce their costs. They are hoping that the consumer, rather than pressing for their rights, will just go away, will give up, and will accept whatever the health plan offers.

I believe we can improve this system dramatically if we have consumer assistance centers in place throughout the United States. These systems will help consumers understand their rights, and will also help to understand in some cases where they do not have a legitimate grievance. One of the virtues of this approach is it will give a consumer of health care an objective place to get an answer. Today some people call the insurance company, where they get different answers and they may get suggestions of what the contract does and does not cover.

Unfortunately, it seems that they get everything except straight answers. As a result, they do not have confidence in the health care system. Consumer assistance, or ombudsman centers that are administered by States can restore a measure of confidence in the system.

Interestingly, this Senate is already familiar with the concept of a health care ombudsman, and at the time, it was supported virtually unanimously. On the Armed Services Committee, we have been studying the issues of managed care in the military, the TriCare system. Many of the complaints with the TriCare system are the same types complaints we hear about managed care in general: Quality is not good, we can't get care, we can't get answers.

As a result, we responded in the defense authorization bill this year. One of the things we did was create within the TriCare system an ombudsman program, an advocacy program, so when military men and women have questions about their families' health, they do not have to get the runaround from the local insurance company; they can go to the ombudsman who can give

them help, support, and assistance to get their claim resolved or, in some cases, to explain that the insurance company is well within its rights to make the decision they made.

I find it interesting and ironic that an ombudsman provision could sweep through the defense authorization bill and be endorsed as something not only noncontroversial but terribly helpful. Yet, as we consider managed care reform, we are struggling with this issue, among many others.

My view is simple: If it makes sense for our military personnel—and we are all committed to giving them the best health care—we should have the same type of sensitivity for the broader population of our country. That is why the Reed-Wyden-Wellstone bill, which is part of the Democratic managed care initiative, is an integral part and one that should be considered, debated, and, I hope, adopted when we get—we hope—to the debate and the votes on managed care.

Our consumer assistance, or ombudsman, program would perform several functions.

First, let me point out that our proposal would establish a competitive grant program for States. It would give them the flexibility to set up a program according to their best sense of how to be of assistance and also that it be cost effective. They would, however, be required to meet certain general guidelines.

One of the functions of the ombudsman, would be to inform people about health care plan options that would be available. There are lots of examples where consumers do not find out about their health care coverage until they have a health care crisis.

I was reading the case of a mother who had a daughter who required eye therapy. The daughter was suffering from autism. One of the complications of that disease is eye problems which requires detailed exercises for the eyes. If that is not done, the child rapidly loses the ability to see, the ability to function appropriately.

She went to her health plan and said: I was told to ask you to give my daughter a referral to an eye specialist for therapy. They said: No; you can't do that, because it is not covered under your contract. She went back and read the contract—all the fine print, all the pages and pages and pages—and discovered, much to her disappointment, much to her chagrin, that indeed this was an excluded service.

The point is, if there is a place that parents or anyone can go to beforehand and say: I have a daughter who has a condition, and there are complications with her sight, and other things; what advice do you have for me about plans? what are the best plans? what knowledge do you have about the plans that are available to me? that would be an immense help to the families of America.

The other thing that would be created is a 1-800 telephone hotline to re-

spond to consumer questions. Again, why don't we have this? Why don't we have a place where a consumer can say: I have just talked to my health care plan; they told me I can't do this?

Why can't we have at least a hotline? In effect, we have lots of little fragmented hotlines. Every one of our offices is a 1-800 hotline for people who are frustrated with their health care. We do it in an ad hoc way. We try to help our constituents. But, frankly, we could do it better and more consistently through an ombudsman program.

Also, what we want to do is help people who think they have been improperly denied care. We want to help them, and not in an adversarial way, but to provide technical advice. It could be helping them write a letter to the insurance company to make an appeal, or explaining their appeal rights to them.

As I said before, many people simply do not understand their appeal rights. It could be that insurance companies do not want them to understand their appeal rights, that they would like them to walk away frustrated, but it not costing the insurance companies any extra money. So for all these reasons, I think an ombudsman program is an absolutely critical part of any managed care reform.

One other reason why an ombudsman program is important is that it could be a way to reduce the potential for litigation. This could be a way to solve problems before they get to the point that the only alternative a consumer thinks he or she has is to get a lawyer. This could be a way to make the system work better without running the risk—and I know this risk is conjured up by the insurance companies every day—of litigation run amok across the United States. So for many reasons, I believe an ombudsman program makes so much sense.

This is not a theoretical response to hypothetical problems. Let me offer a couple of real cases which beg for the kind of consumer assistance we are suggesting in the Democratic alternative.

This is the story of Ms. Carolyn Boyer. Ms. Boyer is a 50-year-old woman who has been battling breast cancer for about 6 years. Like so many patients, she has had to wage a separate battle with her insurance company. Time and time again, her health plan has tormented her with payment followups and a host of bureaucratic hurdles that prevented her from getting timely payment for the services she needs.

This is one example. In the spring of 1996, Ms. Boyer received a bill for a bone scan from Washington Sibley Memorial Hospital. She learned that the total cost of the scan was \$711.50 and that her portion of the bill, the copayment, was \$142.30. She paid her portion of the bill. Thirteen months later, Ms. Boyer received a balance due notice from Sibley Hospital for \$569.20, the amount the hospital had indicated was

covered by the insurer a year earlier. Then she got a bill from Sibley a few days later for the entire \$711.

This was now a battle about who was at fault. Of course, the hospital said it was the insurance company; the insurance company said it was the hospital. Nevertheless, Ms. Boyer struggled through this situation. She had already paid her portion, and now she was going to have to pay more than the original cost if she responded to the last bill.

Now, 3 years later, after much travail, the insurer has paid their full original amount. In fact, they gave Ms. Boyer a refund for the \$142.30 she had paid.

This is a daily occurrence. For every one of our constituents, if you ask them, either it has happened to them or it has happened to someone close to them. One of the interesting things about this is, I suspect strongly that the reason Ms. Boyer was successful in her battle with the insurance company was that at the time of her diagnosis she was a lobbyist for the Health Insurance Association of America. She knew a little bit about the way HMOs and insurance companies work. Before that, she was a lawyer for the Internal Revenue Service.

Ask yourself, what about the truck driver who is confronted with this dilemma? Ask yourself, what about the single mother with children? When they are confronted with this dilemma, where do they go? What kind of legal expertise can they call upon? The answer is, very little or none at all. As a result, they often do not get the care they need, or they pay what they should not pay, or they end up paying all they have, and many of them find themselves almost in bankruptcy, if not worse.

The protections that are built in the Democratic Patients' Bill of Rights will help these people. They will give them access to people who know how to deal with the insurance companies—not unfairly, but objectively.

Let me give you another example of how these ombudsman programs have been helpful.

The Rafferty family in Sacramento, CA, were able to get their problem resolved after they appealed to the California Health Rights Hotline. The metropolitan Sacramento area has its own hotline to address problems and questions with managed care plans.

In September 1998, Lynmarie Rafferty gave birth, by cesarean section, to premature twins, Paige and Hannah. Each only weighed 2 and a half pounds. The girls were admitted to the hospital's neonatal intensive care unit in a very medically fragile condition. The Raffertys had chosen the hospital in part because of its intensive care facilities and its location close to their home.

Two weeks later, the Raffertys received a call from their health plan's medical director. He informed them that Hannah and Paige were going to

be transferred to another hospital that day—not in a few days, but that same day. He told the Raffertys that if the newborns were not transferred on that day, the plan would not pay their hospital bill. The family was devastated. They had two premature babies in fragile medical condition suddenly being ordered out of the hospital. And if they didn't leave, then the thousands and thousands of dollars in bills that the Raffertys thought were being paid by the insurance company would suddenly be their bills.

They also had another young child at home, and the proximity of the new hospital was much further away than the hospital where the twins were currently hospitalized.

Well, the Raffertys went to the plan, told them of their concerns, but to no avail. They went to the physician. Finally, they called the California health rights hotline. The hotline reviewed their plan's contract and informed the Raffertys of their rights. Then the Raffertys said to their health insurance plan: We are not going to give consent to moving our daughters.

The plan still fought them and said: These babies have to leave. Fortunately, with the help of the hotline, the Raffertys were able to draft an appeal letter outlining the reasons why transferring the newborns would violate their rights. Finally, the health plan backed down and accepted the responsibility for the care of the children, which at that point was over \$80,000.

Now, can you imagine where a struggling young family, with a child at home and two newborns, were going to get \$80,000, if the insurance company had prevailed, if there was no hotline, if there were no advocates?

I believe very strongly that this kind of patient protection should be an integral part of the legislation we consider for managed care reform. The Democratic alternative provides those types of protections. It provides for internal reviews and external reviews that are objective, not a situation where the insurance company has picked the individuals who reviewing their own decisions, but truly objective. It also applies the principle that if the insurance company has caused grievous harm, they, just like the doctor, should be liable before a court of law.

It also goes a step further and says: Let's see if we can prevent these troubles before they start. Let's create consumer assistance centers. Let's create an ombudsman who can work with individuals and try to resolve their claims long before they reach the stage where it is a matter of life or death or a matter of financial ruin.

I believe our greatest responsibility today is to move on to this debate in a meaningful way, to talk about the issues of health care, to debate them because there are points of difference that are principled and we should vigorously discuss and debate them. But we have to get into that debate. The health of America depends upon it.

I will mention one other area which I am particularly concerned about. I have spent some time talking about the issue of the appeals process, the procedural protections that we have to build in to any patient protection legislation that moves forward.

There is one other area of concern, among many, but one that particularly concerns me. That is that we have to have legislation that is particularly sensitive to the needs of children. The Rafferty example is a good one: Two premature babies who basically are being threatened with eviction from the hospital. We need to be dealing with the issue of children's health care in the managed care system.

We have to recognize, and too often we don't, that there is a difference between adults and kids. Kids are different. They are particularly different when it comes to health care.

Let me suggest some important differences which argue for special treatment for children within managed care reform legislation. Once again, I believe the Democratic alternative incorporates these special treatments.

First, children are developing. This is not an issue that is confronted in the context of adults who are ill. So developmental issues immediately and automatically create differences in the way children must be dealt with. Between birth and young adulthood, children change and grow. They develop intellectually. They develop physically.

These developmental issues are seldom part of the equation when it comes to making decisions about managed care because their models deal with adults. Their models deal with very specific adult diseases and adult outcomes.

For one reason, they can measure them much better. Many times families are faced with extreme difficulties in getting care from their HMO because the rules that are set for adults don't work for kids. Take, for example, the rule which is common in managed care, that you can only have two sets of crutches in the course of your contract, or year or two. That is fine if you are a fully grown person, if you are an adult. But if you are a developing child, you are going to need different types of crutches, because you are going to get bigger, we hope. The same thing is true with wheelchairs. Children with spina bifida have changes in their bodies and changing needs, much more so than adults. These rules, arbitrary as they may be for adults, are completely inappropriate for children because of this developmental issue. We have to recognize that.

The other thing we have to recognize is, symptoms in children which might be dismissed in adults as minor could be the precursors to significant problems down the road that won't develop and be truly obvious for years ahead. That is another reason why children have to have access to pediatric specialists, not general practitioners, who are used to seeing adults. And if you

have some sniffles, you don't feel right, take two aspirins and get some rest, that could mean something much more significant and much more serious in a developing child.

There is another issue, too, with respect to children that makes them quite different from the grownup population. They are dependent. One of the major measures of health care outcomes in the United States is independent functioning. Can the person function independently? Can they get up and move about? When you are talking about children, they are, by definition, dependent—dependent on adults; in many cases, they are dependent upon adults to explain their medical problems. It takes their parents or the care givers to explain to the physician what is wrong in many cases. That is a difference that seldom is appreciated in managed care plans because they don't have the kind of pediatric specialists or pediatric primary care providers that are so necessary.

The patterns of injury are different between adults and children. The good news is, the children are generally very healthy. But the bad news is, when a child has a serious disease, it is usually a combination of many different conditions, unlike serious adult diseases which are typically a single disease. Again, these complicated, interrelated conditions that threaten development argue for access to pediatric specialists early in the process. That doesn't happen. It doesn't happen enough in managed care plans.

The answer is not because managed care executives don't like kids; managed care executives have some sort of animus towards children. It happens because of dollars and cents. If you have a very small pool of sick children, why are you going to go out and make arrangements to have pediatric specialists in your care network? That is a lot of overhead for just a couple of kids.

We have a market failure. We have a situation in which the market dictates to these companies to do something which in the aggregate harms greatly the health of the American child. That is why we have to act.

Again, this is all part of the Democratic alternative. This is part of what we have to do. In addition, I would add that we need to develop quality measures that actually track children's health, in addition to adult health. We have to go beyond some of the simple things, such as immunization rates. We need to get into more complicated measures and make parents aware of these statistics so they make informed choices about their health plans. Another thing health plans need to begin doing more is looking at children in the context of some of exposures that are unhealthy, but are not directly, traditionally medical; environmental exposures like lead poisoning; community exposures like violence, and the stress and strain of living in difficult circumstances. Our HMOs have to also

begin to think about how, then, they can do what we all thought they were going to do originally—emphasize preventive care, particularly with kids, coordinate not just with their own physicians and medical providers in their networks, but with the schools and community-based care centers, all of the institutions that must be allied together to help the children of America.

Once again, the legislation that we have introduced—the Democratic Patients' Bill of Rights—does this. I can't think of two more compelling reasons to move to this legislation in a meaningful way than the opportunity to give every family a true voice in their health care through the procedural reforms that we have introduced and to give every child in this country the opportunity to get the best health care they can possibly get. I think we owe it to the people who sent us here. I hope we can find a way to move beyond this deadlock and move to vigorous debate on the Patients' Bill of Rights. If we do that, then we will be serving very well the interests of the American people.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just a week ago efforts were made by Members on this side of the aisle to try to encourage our Republican leadership to schedule what is known as the Patients' Bill of Rights legislation, which Senator DASCHLE has introduced and many of us have cosponsored. The underlying point of the Patients' Bill of Rights is very basic and simple: to make sure that medical decisions are going to be made by the trained medical professionals and the patients, and not by accountants or insurance companies. That is basically the concept behind that legislation.

We have tried over the past week to have that legislation before the Senate. There are differences with the membership here on various provisions. During March of this year, we had an opportunity in our Health and Education Committee to have a discussion and debate on some of these matters, and the committee itself reported out legislation. At that time, we had more than 20 different amendments dealing with a range of different issues. Those were handled in a relatively reasonable period of time. People were familiar with the subject matter, as I think they are here in this body. We had that legislation reported out more than three months ago. I think many of us expected that, given the statements that were made by the majority leader in January of this year on several different occasions, the Patients' Bill of Rights would be brought up before the Senate by now for an opportunity to debate and discuss it.

We have not had that opportunity to do so. We had hoped that was going to be the case last week when we discussed it, and we hoped, at least if we were unable at that time to have this

measure actually laid down before the Senate on Tuesday or Wednesday, that the Republican leadership would indicate that we would have the chance to bring it up and debate it now.

It seemed that we might have the chance to bring it up today, with the opportunity to offer amendments, and conclude the legislation by the end of the week, prior to the Fourth of July recess. In the meantime, it seemed that the Democratic leader had given strong assurances that he would do everything he possibly could in urging the Members on this side to work in every possible way to expedite the consideration of various appropriations bills. I think he spoke for all the Members—I am sure he did—on this side on this issue. There are some particular items and some of those measures that should be brought to the Senate for resolution. I thought that when he had indicated he thought it was reasonable that we could conclude a number of the appropriations bills and conclude this legislation, that was a very reasonable suggestion to the leadership.

Now, Mr. President, as those who follow this issue know, this is not the first time the Senate has been effectively closed down—closed down—closed down over their refusal to consider this legislation. That is effectively what is happening here. We will have some procedural kinds of votes, but the American people ought to understand what is really happening here—that these procedural votes that we are going to have later this afternoon really have nothing to do with the underlying legislation; that is, the four different appropriations bills. It is basically an attempt by the leadership to prohibit the debate and discussion on the Patients' Bill of Rights. The American people are beginning to understand that more clearly.

I found when I was back in Massachusetts over this past weekend, talking with various groups, more people are focused on this, more people are paying attention, more people are aware of what is being attempted by the Republican majority—that is, denying us the opportunity for even a reasonable debate and discussion on the Patients' Bill of Rights—than most other issues.

I have taken the time of the Senate before—and I won't take it again this afternoon—to review where we were a little over a year ago. Over a year ago, we were in the exact same position. We were denied the opportunity to bring this measure up for consideration of the Senate. The Republican leadership at that time said that the Democrats were not going to dictate what the agenda will be.

The only problem with that is that it isn't the Democrats who are attempting to dictate the agenda. It's the American people. It's every health care organization that has taken a position in favor of the proposal introduced by Senator DASCHLE and against the one introduced by Senator FRIST and the Republican leadership. Virtually all

leading patient and medical groups have supported the Democratic proposal, Senator DASCHLE's proposal. We could understand why, if we had an opportunity to actually debate these issues.

These groups do not care whether Democrats or Republicans are on a piece of legislation; they just want a strong bill. And virtually every single leading medical group in our country supports ours. None support theirs.

You would think that at some time in this body, on a matter that affects all of the families of this country, we would have an opportunity to have some decisionmaking and be ready to call the roll. Of course, if the ramifications weren't so serious, many of us would have been amused by the statements that were made last week by the assistant majority leader when he said: We are not going to let the Members on our side vote because their votes might be misconstrued for political purposes. That would be laughable if it did not relate to an issue as important as the Patients' Bill of Rights.

Imagine a political leader saying they are refusing to permit Members to vote because their votes may be interpreted in ways which might be misconstrued. I think most of us feel that we can stand on our own two feet in facing various votes. I always appreciate their leadership in trying to protect our various interests. But we are not talking about some narrow special interests, we are talking about the people's interests.

As I have mentioned before, this matter is important because it is a children's issue. Virtually every major children's health group in our country—all those that advocate for children's health—has supported and recognized the importance of our legislation in protecting the interests of children.

They haven't gotten a single organization that is committed to the advancement of the interests of children on their side. We have all of them. We have all of them because of some very important reasons. One of the most obvious ones is that we insist that a child who has some special need is not only going to have a pediatrician—but is also going to have a specialist trained in the area of the particular need of that child. If the child has cancer, the child should be treated by a pediatric oncologist. A doctor that specializes in children and also children's cancer.

When our colleagues on the other side say: We don't understand why the Democrats are talking about specialists because we guarantee specialists; they say, "We guarantee that a sick child will see a pediatrician." But that is not the issue. The question is will a child with a specific need for specialty care have access to a pediatric specialist, meaning a pediatric cardiologist, or a pediatric surgeon, or a pediatric oncologist. Under the Republican bill, the answer is no. Under our bill, the answer is yes.

This is a children's bill. The children's groups have spoken passionately, actively, and enthusiastically in support of our program.

This is a women's issue. The women in this country—the groups that have specialized in women's health generally, and particularly those that have been most concerned about issues, for example, of breast cancer—know the importance of having access to OB/GYN professionals, and to be able to designate that OB/GYN as the primary care doctor for women. We have had voluminous testimony about the importance of that.

It makes sense. Women also understand, particularly those who may be afflicted by the devastation of breast cancer, the importance of clinical trials. When they are talking with their doctor, and the doctor says: Well, we know that there is a clinical trial out there that can make a difference in terms of your survival. We know when that patient then asks to be enlisted in that clinical trial—and the doctor says I can't because your HMO won't permit me to do it, the HMO has overridden my judgment on that—that denying access to it is not in the health interest of that woman. It is not in the health interest of her family, and it puts her at greater risk.

These are not tales. We had the testimony. We have given the examples of what is happening out there. This isn't a diminishing threat. To the contrary, the system is becoming more of a threat to women. Women understand that. This is an enormously important issue with regard to women. That is why virtually all of the major women's groups and organizations support our legislation.

This legislation is also enormously important to those who have some physical or mental disability. We don't necessarily like to use the word "disability" because it implies that people may not be able—and we know that those who do have some challenge are able, and in many instances gifted and talented in many different ways. But they often need specialized attention, treatment, and medicine. Prescription drug formularies can deny access to critically important medications. Yet we find that, while you can always go off the particular HMO's formulary, you may have to pay exorbitant prices for the treatment.

I listened to the handful of those who spoke on the other side in the period last week who said: Oh, they can always go off the formulary. Of course they can—and pay an additional arm and a leg. I think most families in this country understand what the problem is in terms of prescription drugs. They sign up for health insurance—and the HMO takes their premium—and when the time comes for them to get the kind of treatment that they need, the HMO denies it.

We understand how important that is. We want to be able to debate these measures, and these matters.

We had an excellent amendment by the Senator from California talking about "medical necessity." Let us use the best definition in terms of "medical necessity." Let's include in the various HMO plans what is going to be necessary in terms of treatment and what is going to represent the best in terms of medical practice. That seems to make sense. That is not a guarantee today.

I read in the RECORD last week about some of the various HMOs and their definitions of what was going to be included and what was going to be excluded. Listen to what is in the Republican bill, as offered in an amendment by the majority leader last week. On page 27, it says only that HMOs have to provide a description of the definition of "medical necessity" used in making coverage determinations by each plan—each plan.

Do we understand that? It isn't what is the best in terms of health care. It is whatever each plan decides. So any of the HMOs can effectively develop whatever they want to use as a definition for "medical necessity." Your doctor might say to you: This is what the best medicine is to save your life, or your child's life, or your wife's life, or your husband's life. And the medical plan will say: No way, Joe Smith. You signed our contract. You signed that contract. And in that contract, we say that treatment is not medically necessary. Make no mistake, the Republican bill says "a description of the definition of medical necessity" will be a determination by your plan. That is the HMO.

Come on. Don't we think this body should be able to make a decision as to whether you want the Republican plan, which on page 27, line 20, provides patients with "a description of the definition of medical necessity used in making coverage determinations by each plan," or, on the other hand, you want medical decisions to be dictated by the best medical practice in the United States of America?

That is what is in the Feinstein amendment.

Why shouldn't we be able to have 1 hour of debate on that, and have a roll-call in here and make a decision? Where are the Republican principles? Why is it that they are denying the American people the chance to hold their elected Representatives accountable?

That is what they are doing. We can't hold them accountable because the other side won't permit us to get a vote on that particular issue. That is what is going on here. We should have the chance. We will have the chance to go through that legislation.

Remember all of last week they were talking about a description of "medical necessity"—the definition of medical necessity used to make coverage determinations is decided by each such plan under the Republican leadership's bill.

That ought to chill every Member of the opposite side—to think that is the

position that they are stuck with. That is in their Republican bill.

What we are trying to do with the amendment of the Senator from California is to change that to make sure that decisions of medical necessity will be based on the best that we have in terms of treatment, and in terms of the opinions of trained individuals and research.

Let's let the American people understand who is on our side on this particular issue, and who is on the side of the insurance companies. The HMOs are fundamentally the ones that refuse to use the best medical science in terms of their definitions.

This is just one example. It is a very powerful one, but I believe that if we had been able to get on this legislation last week when the Feinstein amendment was actually brought up, we would have been on the appropriations bill this week. We might have concluded several of those various appropriations bills. Instead the whole of last week has passed without any progress, and we are starting over again evidently in anticipation of this week's activity.

Now, apparently, we are going to take a good part of this week just to deny the Senate the opportunity of making a judgment on whether medical decisions should be made by doctors and patients, or by HMO accountants. They won't permit a number of amendments. They won't even permit Members a chance to debate and conclude this in five days. We took 7 to 9 days on the Y2K legislation to try and deal with some anticipated problem regarding the computer industry, but we won't be able to take the few days necessary to protect the American people. I yield the floor.

CLOTURE MOTION

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

The legislative assistant read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Agriculture Appropriations bill:

Senators Trent Lott, Thad Cochran, Ben Nighthorse Campbell, Susan M. Collins, Craig Thomas, Mike Crapo, Kay Bailey Hutchison, Robert F. Bennett, Larry E. Craig, Connie Mack, Charles E. Grassley, Christopher S. Bond, Richard C. Shelby, Tim Hutchinson, Ted Stevens, and Mike Enzi.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under rule XXII has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1233, the agricultural appropriations bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Washington (Mr. GORTON), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

The result was announced—yeas 50, nays 37, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—50

Abraham	Enzi	Nickles
Allard	Fitzgerald	Roberts
Ashcroft	Frist	Roth
Bennett	Gramm	Santorum
Bond	Grams	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Campbell	Hatch	Snowe
Chafee	Helms	Specter
Cochran	Hutchison	Stevens
Collins	Kyl	Thomas
Coverdell	Lott	Thompson
Craig	Lugar	Thurmond
Crapo	Mack	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	

NAYS—37

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Landrieu	Wyden
Dorgan	Leahy	
Durbin	Levin	

NOT VOTING—13

Boxer	Inhofe	Murkowski
Dodd	Jeffords	Torricelli
Edwards	Kohl	Wellstone
Gorton	Lautenberg	
Hutchinson	Lieberman	

The PRESIDING OFFICER (Mr. FITZGERALD). On this vote, the yeas are 50, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to invoke cloture is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I ask unanimous consent that the remaining votes in this series be limited to 10 minutes in length.

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the Transportation Appropriations bill:

Senators Trent Lott, Pete Domenici, Paul Coverdell, Thad Cochran, Pat Roberts, Jesse Helms, Chuck Hagel, Judd Gregg, Ted Stevens, Slade Gorton, William V. Roth, Jr., Bob Smith of New Hampshire, Craig Thomas, Mike Crapo, James M. Inhofe, and Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under rule XXII has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1143, the transportation appropriations bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Washington (Mr. GORTON), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 40, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—49

Abraham	Enzi	Nickles
Allard	Fitzgerald	Roberts
Ashcroft	Frist	Roth
Bennett	Gramm	Santorum
Bond	Grams	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Byrd	Hatch	Snowe
Campbell	Helms	Specter
Cochran	Hutchison	Stevens
Collins	Kyl	Thomas
Coverdell	Lott	Thompson
Craig	Lugar	Thurmond
Crapo	Mack	Voinovich
DeWine	McCain	
Domenici	McConnell	

## NAYS—40

Akaka	Feingold	Mikulski
Baucus	Feinstein	Moynihan
Bayh	Graham	Murray
Biden	Harkin	Reed
Bingaman	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Conrad	Kerry	Warner
Daschle	Landrieu	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lincoln	

## NOT VOTING—11

Boxer	Inhofe	Lieberman
Edwards	Jeffords	Murkowski
Gorton	Kohl	Torricelli
Hutchinson	Lautenberg	

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 40.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under Rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 153, S. 1217, the Commerce, Justice, State appropriations bill:

Senators Trent Lott, Ted Stevens, Fred Thompson, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, George V. Voinovich, Paul Coverdell, Conrad Burns, Pete Domenici, Christopher S. Bond, Mike DeWine, Slade Gorton, John Ashcroft, Frank H. Murkowski, and Jeff Sessions.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

## VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1217, the Commerce, Justice, and State, the Judiciary Appropriations bill, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Washington (Mr. GORTON), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Florida (Mr. MACK) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the

Senator from North Carolina (Mr. EDWARDS), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 39, as follows:

[Rollcall Vote No. 186 Leg.]

## YEAS—49

Abraham	Domenici	Nickles
Allard	Enzi	Roberts
Ashcroft	Fitzgerald	Roth
Bennett	Frist	Santorum
Bond	Gramm	Sessions
Brownback	Grams	Shelby
Bunning	Grassley	Smith (OR)
Burns	Gregg	Snowe
Byrd	Hagel	Specter
Campbell	Hatch	Stevens
Chafee	Helms	Thomas
Cochran	Hutchison	Thompson
Collins	Kyl	Thurmond
Coverdell	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

## NAYS—39

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Schumer
Dodd	Landrieu	Smith (NH)
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

## NOT VOTING—12

Boxer	Inhofe	Lieberman
Edwards	Jeffords	Mack
Gorton	Kohl	Murkowski
Hutchinson	Lautenberg	Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to Rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 159, S. 1234, the Foreign Operations appropriations bill.

Senators Trent Lott, Ted Stevens, Fred Thompson, Richard G. Lugar, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, Mike DeWine, Conrad Burns, Pete Domenici, Christopher Bond, Slade Gorton, John Ashcroft, George V. Voinovich, Frank H. Murkowski, and Paul Coverdell.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

## VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1234, the Foreign Operations appropriations bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Washington (Mr. GORTON), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Florida (Mr. MACK), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 41, as follows:

[Rollcall Vote No. 187 Leg.]

## YEAS—49

Abraham	Domenici	Nickles
Allard	Enzi	Roberts
Ashcroft	Fitzgerald	Roth
Bennett	Frist	Santorum
Bond	Gramm	Sessions
Brownback	Grams	Shelby
Bunning	Grassley	Smith (OR)
Burns	Gregg	Snowe
Byrd	Hagel	Specter
Campbell	Hatch	Stevens
Chafee	Helms	Thomas
Cochran	Hutchison	Thompson
Collins	Kyl	Thurmond
Coverdell	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

## NAYS—41

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Schumer
Dodd	Kohl	Smith (NH)
Dorgan	Landrieu	Wellstone
Durbin	Leahy	Wyden
Edwards	Levin	

## NOT VOTING—10

Boxer	Jeffords	Murkowski
Gorton	Lautenberg	Torricelli
Hutchinson	Lieberman	
Inhofe	Mack	

The PRESIDING OFFICER. On this vote the yeas are 49, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. LOTT. Mr. President, our effort with these cloture votes was to find a way to move the people's business forward. We had four cloture votes on four appropriations bills: one on the agriculture appropriations bill and three on motions to proceed to other bills—Commerce-Justice-State transportation, and foreign operations appropriations.

Obviously, these bills are ready to go. We should make every effort to consider those and/or other bills. I understand the District of Columbia appropriations bill is ready and perhaps Treasury-Postal Service. The Appropriations Committee is doing its work, and its work is stacking up now on our calendar.

The business before us is exactly how to proceed with the cloture motion filed on the Kennedy bill, which was offered as a second-degree amendment to the Feinstein amendment. I had suggested we would be willing to do it in the stacked sequence today, but I did not ask consent for that. We need to find some way to move forward on that cloture vote.

Rather than waiting until Wednesday, I want us to find a way to have that vote so we can move on to what is to be the outcome of that and whatever follows next.

#### ORDER OF BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur on the Kennedy health care bill at 12:15 p.m. on Tuesday and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote on the Kennedy health care bill occur at 2:15 p.m. on Tuesday and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, there is one other option. If we do not get an agreement to handle it sometime tomorrow, we will, of course, handle it in the regular order on Wednesday, either 1 hour after we come in or sometime which the leaders will discuss. I have one more request.

Mr. President, I ask unanimous consent that there be 1 hour of debate on the pending amendment to be equally divided in the usual form and the vote occur on, or in relation to, the amendment at 11 a.m. on Tuesday.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, will the majority leader be prepared to waive points of order on that particular amendment?

Mr. LOTT. I do not believe I am able to do that, although I do not know of any reason that would be used.

But I think at this point I would not be inclined to waive a point of order.

Mr. DASCHLE. Mr. President, until we have been able to clarify that, I will have to object.

The PRESIDING OFFICER. Objection is heard.

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

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me explain briefly our situation.

Early this year, the majority leader stated we would take up the Patients' Bill of Rights in June. We applauded that commitment. That is really what this fight is all about—maintaining the commitment that was made earlier.

Democrats have been saying we will do everything humanly possible to ensure that the Senate engages in a full, meaningful debate on the central issues of managed care reform:

Whether doctors or HMO bureaucrats determine what tests or treatments are medically necessary;

Whether you or your child can see a qualified specialist;

Whether patients have access to a timely, independent, external review to appeal HMO decisions to deny care;

Whether HMOs should be held accountable for medical decisions to deny or delay care that injure or even kill patients;

Whether an HMO bureaucrat, or your doctor, decides what prescription drugs you need;

Whether you or your family member can participate in a clinical trial for a potentially life-saving new treatment;

Whether all privately insured Americans deserve protection.

The list goes on and on. Those are some of the issues, some of the questions.

We have tried to reach an agreement with the majority to call up the bill separately. All we have asked is that we be guaranteed votes on those central issues. So far, the majority has refused.

What we have done in the last few days is what we vowed we would have to do: We are offering our proposal as amendments on the floor, as is our right under the Senate rules.

In my view, it is also our obligation to bring to the floor of the Senate the issues that matter most to the American people.

While some have suggested there isn't time for this debate, others have stated quite clearly their real reason for refusing: They do not want to vote on these issues.

Why don't they want to cast these votes? Because they are, frankly, on the wrong side of the issues. They do not want to have to defend their position.

They said they want to get beyond the Feinstein amendment. They can. All they have to do is vote on it. The majority wants to accuse us of holding up the Senate, but nothing is stopping any member of the majority from moving to table the Feinstein amendment. They can do that tonight. We could have our vote and move on to another amendment. That is all that is re-

quired: Table the Feinstein amendment if you do not like it.

But the majority appears not to want to table the amendment. They appear to be afraid to have that vote, afraid to let doctors make medical decisions, afraid to admit they are blocking that patient protection. I have never seen anything like the bob-and-weave tactics that have been employed to date to avoid this vote.

So what are they afraid of? What is wrong with doctors making medical decisions? I believe this is gamesmanship at its worst.

Last week we heard several Republican Senators talk about how good their Patients' Bill of Rights is. Then they voted to strip it from the floor.

Now they are offering the Democratic bill—which they tabled just last week so they could avoid an up-or-down vote on the Feinstein amendment—so they can avoid a vote on whether or not to let doctors and other health care professionals determine what is medically necessary.

Every day the majority makes these decisions, every day they avoid these tough votes, someone's child, someone's parent, someone's spouse is being denied medical care prescribed by a doctor because an insurance company accountant is saying it isn't really necessary or that it costs too much.

Let me make one thing very clear. This dispute isn't about the Senate's time. In the time the majority has spent avoiding a single vote on medical necessity, we could have considered the entire Patients' Bill of Rights amendments. They have turned down every offer we have made to address this issue in an efficient manner. This dispute isn't about time, it is about actual votes on actual rights. We insist on having them—both the votes and the rights. Apparently our colleagues on the other side of the aisle want neither.

Up-or-down votes—isn't that what the Senate is here to do, to vote on the issues that matter the most? If and when the majority is willing to vote on these issues, the Senate can move on. But it is our belief that the Senate should not move on until it has dealt properly with one of the most important issues facing virtually every American—their health care.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

#### MORNING BUSINESS

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

**SERVICE-LEARNING GOES NATIONAL—LEADING SCHOOLS ARE ANNOUNCED**

Mr. KENNEDY. Mr. President, the Corporation for National Service recently announced the first winners of the National Service-Learning Leader Schools program, a Presidential initiative to recognize outstanding schools for their achievements in the field of service-learning.

Learn and Serve America, one of the three national service programs of the Corporation for National Service, is sponsoring the Leader Schools initiative. In this, its pilot year, the program is honoring 70 high schools in 41 states and the District of Columbia for thoughtfully and effectively integrating community service into the lives of students. The goals of the program are to promote civic responsibility, improve school and student performance, and strengthen local communities.

Four schools from Massachusetts—Drury High School in North Adams, Hudson High School, Phillips Exeter Academy, and Sharon High School have been leaders in our state on service-learning, and were honored by this designation. I commend them for the important work that they have accomplished in making community service an integral part of school life. These schools are impressive models for Massachusetts and for the nation.

The Leader Schools program is not simply an awards program. The schools being honored today are also making a two year commitment to help other schools include service-learning in their curriculum.

In May 1996, President Clinton announced his intention to identify and honor the schools that have done the best job of encouraging, organizing, and leading the service-learning movement. He said, "We should make service to the community a part of every high school in America and a part of the life of every dedicated citizen in the United States."

Many of us have seen local service-learning programs in action and the inspiring way that students of all ages respond and work together to improve their communities.

The Corporation for National Service also administers AmeriCorps, the domestic Peace Corps that is engaging over 40,000 Americans in intensive, service activities. In addition, it administers the National Senior Service Corps, which is involving nearly half a million Americans age fifty-five and older to share their time and talents to help solve local problems. These three outstanding programs are all achieving great success under the strong leadership of our former colleague in the Senate, Harris Wofford, who is the chief executive officer of the Corporation.

I also commend Carol Kinsley, a member of the Corporation's Board of Directors, for her strong commitment and leadership in the field of service-learning. The dedication of citizens

like Carol are contributing immensely to the success of our national service programs.

I ask unanimous consent that the list of Leader Schools be printed in the RECORD.

These seventy schools were honored in a ceremony held at the Kennedy Center last week. These schools are leaders in education reform, and I commend them for all they are doing so well for our country and its future.

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

**1999 NATIONAL SERVICE-LEARNING LEADER SCHOOLS**

Charles Henderson High School, Troy, AL; Mesa High School, Mesa, AZ; Saguaro High School, Scottsdale, AZ; Community ACTION Academy at Balboa High School, San Francisco, CA; Los Molinos High School, Los Molinos, CA; Pioneer High School, San Jose, CA; Eagle Rock School and Professional Development Center, Estes Park, CO; Grand Junction High School, Grand Junction, CO.

Waterford High School, Waterford, CT; Bell Multicultural High School, Washington, DC; PEAK (Program for Educational Alternatives in Kent County), Dover, DE; Mainland High School, Daytona Beach, FL; Rutherford High School, Panama, FL; South Lake High School, Groveland, FL; Carver High School, Columbus, GA; Konawaena High School, Kealahou, HI; Olomana School, Kailua, HI.

Marion High School, Marion, IA; Shelley High School, Shelley, ID; Harry D. Jacobs High School, Algonquin, IL; PACE High School, Blue Island, IL; West Vigo High School, West Terre Haute, IN; DeSoto High School, DeSoto, KS; Glasco High School, Glasco, KS; Airlie High School, Bossier City, LA.

Drury High School, North Adams, MA; Hudson High School, Hudson, MA; Phillips Academy, Andover, MA; Sharon High School, Sharon, MA; Fairmount-Harford High School, Baltimore, MD; Orono High School, Orono, ME; ACE High School, Stambaugh, MI; Benilde-St. Margaret's School, St. Louis Park, MN; Carver-Scott Educational Cooperative, Chaska, MN.

Bailey Alternative High School, Springfield, MO; McComb High School, McComb, MS; Jamesville High School, Jamesville, NC; Louisburg High School, Louisburg, NC; Southern Wayne High School, Dudley, NC; Westside High School, Omaha, NE; Bernards High School, Bernardsville, NJ; Cape May County Technical School, Cape May Court House, NJ; Fair Lawn High School, Fair Lawn, NJ.

Monmouth County Academy of Allied Health and Science, Neptune, NJ; La Cueva High School, Albuquerque, NM; Scotia-Glenville High School, Scotia, NY; North Olmsted High School, North Olmsted, OH; Steubenville High School, Steubenville, OH; Upper Arlington High School, Upper Arlington, OH; Ponca City Senior High School, Ponca City, OK; Crook County High School, Prineville, OR.

Abington Senior High School, Abington, PA; Conrad Weiser Area High School, Robesonia, PA; Cumberland High School, Cumberland, RI; Pickens Senior High School, Pickens, SC; Spring Valley High School, Columbia, SC; Wren High School, Piedmont, SC; Teen Learning Center, Cleveland, TN.

American Institute for Learning, Austin, TX; M'Lee Brooks, Bryan High School, Bryan, TX; Dixie High School, St. George, UT; Horizonte Instruction and Training Cen-

ter, Salt Lake City, UT; Judge Memorial Catholic High School, Salt Lake City, UT; Brooke Point High School, Stafford, VA.

Thetford Academy, Thetford, VT; Granite Fall High School, Granite Falls, WA; Malcolm Shabazz City High School, Madison, WI; Menasha High School, Menasha, WI; Elkins Mountain School, Elkins, WV; West Virginia Schools for the Deaf and the Blind, Romney, WV.

**THE VERY BAD DEBT BOXSCORE**

Mr. HELMS. Mr. President, at the close of business Friday, June 25, 1999, the federal debt stood at \$5,599,474,776,223.74 (Five trillion, five hundred ninety-nine billion, four hundred seventy-four million, seven hundred seventy-six thousand, two hundred twenty-three dollars and seventy-four cents).

One year ago, June 25, 1998, the federal debt stood at \$5,504,168,000,000 (Five trillion, five hundred four billion, one hundred sixty-eight million).

Twenty-five years ago, June 25, 1974, the federal debt stood at \$469,234,000,000 (Four hundred sixty-nine billion, two hundred thirty-four million) which reflects a debt increase of more than \$5 trillion—\$5,130,240,776,223.74 (Five trillion, one hundred thirty billion, two hundred forty million, seven hundred seventy-six thousand, two hundred twenty-three dollars and seventy-four cents) during the past 25 years.

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

**EXECUTIVE MESSAGES REFERRED**

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

**REPORT OF THE EXECUTIVE ORDER OF THE IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT—MESSAGE FROM THE PRESIDENT—PM 42**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

*To the Congress of the United States:*

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers

Act (50 U.S.C. 1701 et seq.), I issued Executive Order 12938, declaring a national emergency to deal with this danger. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 12, 1998. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to further amend Executive Order 12938 in order to more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities.

The new executive order, which implements the Chemical Weapons Convention Implementation Act of 1998, strengthens Executive Order 12938 by amending section 3 to authorize the United States to implement important provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, a multilateral agreement that serves to reduce the threat posed by chemical weapons. Specifically, the amendment enables the United States Government to ensure that imports into the United States of certain chemicals from any source are permitted in a manner consistent with the relevant provisions of the Convention.

WILLIAM J. CLINTON.

THE WHITE HOUSE, June 25, 1999.

#### MESSAGE FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate.

H.R. 1658. An act to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes.

H.R. 2084. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with transition from the year 1999 to the year 2000, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. SENSENBRENNER, Mr. GOODLATTE, Mr. CONYERS, and Ms. LOFGREN.

From the Committee on Commerce, for consideration of section 18 of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. OXLEY, and Mr. DINGELL.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DINGELL, Mr. TAUZIN, Mr. MARKEY, and Mr. OXLEY: *Provided*, That Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of sections 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by section 104 of the House bill.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. CONYERS, Mr. COBLE, Mr. BERMAN, and Mr. GOODLATTE.

#### MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times and placed on the calendar:

H.R. 2084. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

#### 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-3927. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Incorporation by Reference of Approved Stated Hazardous Waste Management Program" (FRL #6364-2), received June 22, 1999; to the Committee on Environment and Public Works.

EC-3928. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency,

transmitting, pursuant to law, the report of a rule entitled "Delegation of National Emission Standards for Hazardous Air Pollution for Source Categories; State of Arizona; Pima County Department of Environmental Quality" (FRL #6366-8), received June 22, 1999; to the Committee on Environment and Public Works.

EC-3929. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District, Monterey Bay Unified Air Pollution Control District, Placer County Air Pollution Control District, and Ventura County Air Pollution Control District" (FRL #6362-9), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3930. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Modoc County Air Pollution Control District, Siskiyou County Air Pollution Control District, Tehama County Air Pollution Control District, and Tuolumne County Air Pollution Control District" (FRL #6365-3), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3931. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan" (FRL #6368-6), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3932. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM-10" (FRL #6365-9), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3933. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Michigan" (FRL #6366-5), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3934. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Volatile Organic Compound Emissions Standards for Architectural Coatings; Correction" (FRL #6368-7), received June 23, 1999; to the Committee on Environment and Public Works.

EC-3935. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aspergillus flavus AF36; Exemption from Temporary Tolerance, Technical Amendment" (FRL #6087-3), received June 23, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3936. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyprodinil; Pesticide Tolerance for Emergency Exemption" (FRL # 6086-3), received June 23, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3937. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fludioxonil; Pesticide Tolerance for Emergency Exemption" (FRL # 6086-4), received June 23, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3938. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hexaconazole; Pesticide Tolerance" (FRL # 6084-4), received June 23, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3939. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Conduct at the Mt. Weather Emergency Assistance Center and at the National Emergency Training Center" (64 FR 31136) (06/10/99), received June 18, 1999; to the Committee on Environment and Public Works.

EC-3940. A communication from the Fisheries Biologist, Office of Protected Resources, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Eleven New Species Including One New Genus of Bryozoans From Capron Shoal, Florida, as Threatened or Endangered Under the Endangered Species Act" (Docket No. 990520140-9140-01) (ID No. 041699A), received June 16, 1999; to the Committee on Environment and Public Works.

EC-3941. A communication from the Congressional Review Coordinator, Policy and Program Development, Regulatory Analysis and Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Compensation for the 1997-1998 Crop Season" (Docket No. 96-016-35), received June 22, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3942. A communication from the Secretary of Veterans Affairs, and the Secretary of Education, transmitting jointly, pursuant to law, a report relative to procedures for cancellations and deferments of federal student loans for eligible disabled veterans; to the Committee on Veteran's Affairs.

EC-3943. A communication from the Administrator, General Services Administration, transmitting, a report relative to a lease for the U.S. Attorneys Office in Seattle, WA; to the Committee on Environment and Public Works.

EC-3944. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1998, through March 31, 1999; to the Committee on Governmental Affairs.

EC-3945. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the State of Michi-

gan, et al; Additional Option for Handler Diversion and Receipt of Diversion Credits" (Docket No. FV99-930-1 FIR), received June 22, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3946. A communication from the Chief, Fees Section, Financial Operations Division, Office of the Managing Director, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1107 of the Commission's Rules" (GEN Doc. No. 860285) (FCC 98-87), received June 23, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3947. A communication from the Acting Regulations Officer, Office of Process and Innovation Management, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Old-Age, Survivors and Disability Insurance; Employer Identification Numbers for State and Local Government Employment" (RIN0960-AE84), received June 23, 1999; to the Committee on Finance.

EC-3948. A communication from the Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Record of Decision; Tongass National Forest; Land and Resource Management Plan; Alaska," received June 17, 1999; to the Committee on Energy and Natural Resources.

EC-3949. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Procedures" (RIN3069-AA86), received June 23, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-3950. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Abolishment of the Lubbock, Texas, Non-appropriated Fund Wage Area" (RIN3206-AH88), received June 23, 1999; to the Committee on Governmental Affairs.

EC-3951. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Abolishment of Kansas City, Missouri, Special Wage Scale for Printing Positions" (RIN3206-A111), received June 23, 1999; to the Committee on Governmental Affairs.

EC-3952. A communication from the Acting Chief, Enforcement Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Truth-in-Billing Format" (CC Docket No. 98-170, FCC 99-72), received June 23, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3953. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Limited Ports; Memphis, TN" (Docket Number 98-102-1/2), received June 24, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3954. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Mississippi Update to Materials Incorporated by Reference" (FRL #6348-4), received June 24, 1999; to the Committee on Environment and Public Works.

EC-3955. A communication from the Director, Office of Regulatory Management and

Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revised Format for Materials Being Incorporated by Reference" (FRL #6367-5), received June 24, 1999; to the Committee on Environment and Public Works.

EC-3956. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities (USCG-1998-3917)" (RIN2115-AF85), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3957. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR: Skull Creek, Hilton Head, SC (CGD-07-99-037)" (RIN2115-AE46), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3958. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR: 4th of July Celebration Ohio River Mile 469.2-470.5, Cincinnati, OH (CGD-08-99-042)" (RIN2115-AE46) (1999-0027), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3959. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR: 4th of July Celebration Ohio River Mile 469.2-470.5, Cincinnati, OH (CGD-08-99-041)" (RIN2115-AE46) (1999-0025), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3960. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR: Fireworks Displays within the First Coast Guard District (CGD-01-99-009)" (RIN2115-AE46) (1999-0026), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3961. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; San Joaquin Valley Unified Air Pollution Control District Final Rule; Correction" (FRL # 6368-4), received June 24, 1999; to the Committee on Environment and Public Works.

EC-3962. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulation: Consumer Confidence Reports; Correction" (FRL # 6369-1), received June 24, 1999; to the Committee on Environment and Public Works.

EC-3963. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations" (RIN2120-AG19), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3964. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (26); Amdt. No. 1936 {6-23/6-24}" (RIN2120-AA65) (1999-0030), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3965. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Hackensack River, NJ (CGD-01-99-059)" (RIN2115-AE47) (1999-0023), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3966. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Hackensack River, NJ (CGD-01-99-084)" (RIN2115-AE47) (1999-0025), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3967. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Gulf Intracoastal Waterway, LA (CGD-08-99-039)" (RIN2115-AE47) (1999-0022), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3968. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Bayou Des Allemands, LA (CGD-08-99-040)" (RIN2115-AE47) (1999-0024), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3969. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (63); At. No. 1935 {6-23/6-24}" (RIN2120-AA65) (1999-0031), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3970. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes, Model MD-88 Airplanes, and Model MD-90-30 Airplanes; Docket No. 98-NM-109 {6-23/6-24}" (RIN2120-AA64) (1999-0250), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3971. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 777 Series Airplanes; Docket No. 99-NM-116 {6-23/6-24}" (RIN2120-AA64) (1999-0252), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3972. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes; Docket No. 97-NM-11 {6-23/6-24}" (RIN2120-AA64) (1999-0251),

received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3973. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; De Kalb, IL; Docket No. 98-AGL-20 {6-22/6-24}" (RIN2120-AA66) (1999-0208), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3974. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK 21 Gliders; Direct Final Rule; Confirmation of Effective Date; Docket No. 91-CE-25 {6-21/6-24}" (RIN2120-AA64) (1999-0253), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3975. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hamilton, OH; Docket No. 99-AGL-18 {6-22/6-24}" (RIN2120-AA66) (1999-0210), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3976. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Savanna, IL; Docket No. 99-AGL-19 {6-22/6-24}" (RIN2120-AA66) (1999-0211), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3977. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Willmar, MN; Docket No. 99-AGL-17 {6-22/6-24}" (RIN2120-AA66) (1999-0209), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3978. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neillsville, WI; Docket No. 99-AGL-23 {6-22/6-24}" (RIN2120-AA66) (1999-0212), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3979. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Juneau, WI; Docket No. 99-AGL-22 {6-22/6-24}" (RIN2120-AA66) (1999-0213), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3980. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kokomo, IN; Docket No. 99-AGL-21 {6-22/6-24}" (RIN2120-AA66) (1999-0214), received June 24, 1999; to the Committee on Commerce, Science and Transportation.

EC-3981. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to

law, the report of a rule entitled "Safety/Security Zone Regulations: Cocos Lagoon, Guam (COTP GUAM 99-011)" (RIN2115-AA97) (1999-0032), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3982. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Heritage of Pride Fireworks, Hudson River, New York (CGD 01-99-056)" (RIN2115-AA97) (1999-0031), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3983. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Clamfest Fireworks, Sandy Hook Bay, Atlantic Highlands, New Jersey (CGD 01-99-071)" (RIN2115-AA97) (1999-0030), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3984. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Glen Cove, New York Fireworks, Hempstead Harbor, NY (CGD 01-99-042)" (RIN2115-AA97) (1999-0035), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3985. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Salvage of Sunken Fishing Vessel CAPE FEAR, Buzzards Bay, MA (CGD 01-99-078)" (RIN2115-AA97) (1999-0034), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3986. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Rowayton Fireworks Display, Bayley Beach, Rowayton, CT (CGD 01-99-081)" (RIN2115-AA97) (1999-0039), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3987. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Saybrook Summer Pops Concert, Saybrook Point, Connecticut River, CT (CGD 01-99-074)" (RIN2115-AA97) (1999-0038), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3988. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Mashantucket Pequot Fireworks Display, Thames River, Groton, CT (CGD 01-99-061)" (RIN2115-AA97) (1999-0037), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3989. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Sag Harbor Fireworks Display, Sag Harbor Bay, Sag Harbor, NY (CGD 01-99-072)" (RIN2115-AA97) (1999-

0036), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3990. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Virginia Beach Weekly Fireworks Display, Rudee Inlet, Virginia Beach, Virginia, and Atlantic Ocean, Coastal Waters, between 17th and 20th Street, Virginia Beach, Virginia (CGD 05-99-041)" (RIN2115-AA97) (1999-0033), received June 24, 1999; to the Committee on Commerce, Science, and Transportation.

EC-3991. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the nomination of an Assistant Secretary of Labor for Policy; to the Committee on Health, Education, Labor, and Pensions.

### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-217. A joint resolution adopted by the General Assembly of the State of Colorado relative to the "Colorado Wilderness Act of 1999"; to the Committee on Energy and Natural Resources.

#### HOUSE JOINT RESOLUTION 99-1020

Whereas, H.R. 829, the "Colorado Wilderness Act of 1999", proposes to designate another approximately one million four hundred thousand acres of land in Colorado as wilderness prior to the revision of many of Colorado's forest plans, thereby usurping the United States Forest Service's land management review process and ignoring the original wilderness recommendations made to the United States Congress by the United States Bureau of Land Management ("BLM") that totaled four hundred thirty-one thousand acres; and

Whereas, H.R. 829 was drafted without input from either the general public or local elected officials and does away with local control over land management; and

Whereas, Federal lands in Colorado have been exhaustively studied for their wilderness suitability under the "Wilderness Act" of 1964, the Department of Agriculture's second roadless area review and evaluation (RARE II), the wilderness evaluation by the BLM, the "Colorado Wilderness Act of 1980", and the "Colorado Wilderness Act of 1993"; and

Whereas, Many acres of federal lands slated for wilderness designation do not qualify as pristine as required by the "Wilderness Act" of 1964; and

Whereas, The United States Congress considered the option of wilderness designation of federal lands in Colorado and designated several areas under the "Wilderness Act" of 1964 and approved two statewide wilderness bills. One of those statewide wilderness bills was enacted in 1980 and classified one million four hundred thousand acres as wilderness. The other was enacted in 1993 and provided wilderness protection for six hundred eleven thousand seven hundred acres, bringing the total wilderness acreage in Colorado to three million three hundred thousand to date; and

Whereas, The United States Congress declared that lands once studied and found to be unsuitable for wilderness designation should be returned to multiple-use management; and

Whereas, H.R. 829 creates a federal reserved water right for each wilderness area, an approach specifically rejected in the 1980 and 1993 wilderness bills; and

Whereas, The designation of downstream wilderness areas may result in the application of the federal "Clean Water Act of 1977" requirements in a manner that interferes with existing and future beneficial water uses in Colorado; and

Whereas, The overall effect of the designation of downstream wilderness areas will be to destroy Colorado's ability to develop and use water allocated to the citizens of this state and under interstate compacts, thereby forfeiting Colorado's water to downstream states; and

Whereas, Many of our rural economies are dependent on a combination of multiple uses of our public lands, such as timber production, oil, gas, and mineral development, and motorized and mechanized recreation, all of which are prohibited by a wilderness designation and also severely inhibits the ability to conduct grazing activities on public lands; and

Whereas, Wilderness designations limit the land management options available to public land managers to protect forest health and dependent watersheds; and

Whereas, Additional wilderness designation puts increased pressure on the new designated lands as well as lands currently open to multiple-use activities and limits access to only the most physically capable individuals; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein;*

That the members of the Sixty-second General Assembly oppose H.R. 829, the "Colorado Wilderness Act of 1999". Be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States, the United States Secretary of the Interior, the Director of the United States Bureau of Land Management, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Colorado's delegation in the United States Congress.

POM-218. A joint resolution adopted by the General Assembly of the State of Colorado relative to hardrock mining activities; to the Committee on Energy and Natural Resources.

#### HOUSE JOINT RESOLUTION 99-1023

Whereas, The mining industry is vital to the economy of Colorado, with direct and indirect contributions to the state's economy that exceed \$7.7 billion annually; and

Whereas, Hardrock miners are the highest paid industrial workers in Colorado, earning average annual wages of approximately \$60,000; and

Whereas, The producers of gold, silver, lead, zinc, molybdenum, gypsum, and other minerals located under the general mining laws provide a source of high paying jobs in rural areas of Colorado whose economies are highly dependent upon resource extraction; and

Whereas, Lower mineral commodity prices and other economic factors continue to challenge this industry making it important that state and local governments fashion regulatory programs that are cost effective and yet sufficient to regulate the environmental impacts of hardrock mining activities on public and private lands; and

Whereas, The "Federal Land Policy and Management Act of 1976" requires that mineral activities on federal lands protect the environment and prohibits any mining activity that would result in unnecessary and undue degradation of these areas; and

Whereas, The Bureau of Land Management within the United States Department of the Interior implements the mandate of federal law through regulations codified at 43 C.F.R.

subpart 3809, and these laws and regulations are among the many laws that require mineral producers to protect air, water, cultural, historic, fish, wildlife, and other resources; and

Whereas, The division of minerals and geology in the Colorado department of natural resources, through a cooperative agreement with the Bureau of Land Management, is the lead agency responsible for regulating mining activity on both public and private lands; and

Whereas, Colorado effectively regulates mining operations pursuant to the "Colorado Mined Land Reclamation Act", part 1 of article 32 of title 34, Colorado Revised Statutes, that sets forth very comprehensive permitting, bonding, environmental management, monitoring, and reclamation requirements for hardrock mining activities on both public and private lands; and

Whereas, The Colorado General Assembly strengthened this law in 1993 requiring that mining operators using certain toxic chemicals in mineral extraction meet more stringent standards before receiving authorization to mine; and

Whereas, The United States Department of the Interior, through the Bureau of Land Management, has announced its intention to propose revisions to 43 C.F.R. subpart 3809, that would preempt, conflict with, and duplicate the very effective state program now in place, and replace it with a plenary federal program that may well lessen the environmental protections available under state law; and

Whereas, In 1998, the United States Congress enacted legislation directing the National Academy of Sciences to perform a study of the adequacy of state and federal laws governing hardrock mining on public lands and submit its findings and recommendations before the Department of the Interior's Bureau of Land Management may finalize changes to regulations under 43 C.F.R. subpart 3809; and

Whereas, Notwithstanding the express mandate of Congress, the Bureau of Land Management proposed revisions to the regulations promulgated under 43 C.F.R. subpart 3809, in February, 1999, before the National Academy of Sciences has concluded, much less submitted, its study and recommendations, and the Bureau of Land Management has failed to consider the National Academy of Sciences' findings or process in fashioning the various regulatory revisions currently awaiting public comment; and

Whereas, Any changes to the regulations promulgated under 43 C.F.R. subpart 3809 must be based upon sound science and compelling policy reasons, and must take into account the findings and recommendations of the National Academy of Sciences' study before the Bureau of Land Management submits its proposal for public comment, yet the comment period on the proposed rules is set to expire on May 10, 1999, before the National Academy of Sciences completes its study of existing laws; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein:*

1. That the General Assembly calls upon the United States Department of the Interior and the Bureau of Land Management to withdraw the current proposal to amend the federal regulations, 43 C.F.R. subpart 3809 and published at 64 F.R. 6422 on February 9, 1999, governing hardrock mining activity.

2. That the General Assembly calls upon the Bureau of Land Management to await completion of the study currently underway by the National Academy of Sciences of the adequacy of hardrock mining regulations, which must be completed prior to July 31, 1999, and that the Bureau of Land Management refrain from publishing any further

changes to the existing rules before it has fully considered the results of the study.

3. That the General Assembly calls upon the Bureau of Land Management, if it decides that further revisions to 43 C.F.R. subpart 3809 are necessary, to fully explain in the preamble to the new regulations how it fashioned its proposals in response to the anticipated findings and conclusions of the National Academy of Sciences' study and give the public at least 90 days to comment on the proposed changes.

4. That the General Assembly opposes changes to 43 C.F.R. subpart 3809 that would preempt the existing Colorado regulatory program or that would duplicate permitting and other requirements.

5. That the General Assembly calls upon the United States Department of the Interior to consider that the mining industry is one of the most heavily regulated industries in the United States and that unreasonable delays in obtaining permits are a significant disincentive to the location of new mines or expansion of existing mines in the United States.

6. That the General Assembly opposes the concept developed as a result of 43 C.F.R. subpart 3809 of using the "Most Appropriate Technology and Practices" which allows the Bureau of Land Management to dictate what type of equipment and technologies are employed by mining operators. Using the "Most Appropriate Technology and Practices" would replace the existing regulatory scheme that requires mining operators meet performance standards, but allows the individual operators to decide how the individual operator will meet environmental standards.

7. That the General Assembly specifically calls upon the Bureau of Land Management to consider the economic impact on mining and the communities dependent upon mining in Colorado and other states.

8. That the Bureau of Land Management specifically consider the conclusions in the Fraser Report that found that Colorado and many other states were ranked low in investment attractiveness due, in part to the burden that government regulation imposes on the industry. Colorado received a score of only 24 out of a possible 100 in the Fraser Report.

9. That the General Assembly further calls upon the Congress of the United States to impose a moratorium on any appropriations for the continuation or completion of the current rulemaking until the Department of the Interior withdraws the current rulemaking and agrees to fully consider the findings and recommendations of the National Academy of Sciences' study. Be it further

*Resolved*, That a copy of this resolution be transmitted to the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, the President of the United States, the Vice-president of the United States, the Secretary of the United States Department of the Interior, the Director of the Bureau of Land Management, and each member of the Colorado Congressional delegation.

POM-219. A joint resolution adopted by the General Assembly of the State of Colorado relative to the Environmental Protection Agency's over-filing against regulated entities in Colorado where Colorado has already taken enforcement action; to the Committee on Environment and Public Works.

#### HOUSE JOINT RESOLUTION 99-1037

Whereas, Protection of public health and the environment are among the highest priorities of government that requires a united and uniform effort at all levels of government; and

Whereas, The United States Congress has enacted environmental laws to ensure the

protection of the nation's environment and consequently the health of the citizens of the United States; and

Whereas, These federal environmental laws often provide for the primacy of their administration and enforcement to be delegated to the individual states; and

Whereas, The United States Environmental Protection Agency (EPA) is responsible for the administration and enforcement of these federal environmental laws; and

Whereas, States that have been delegated primacy have demonstrated to the EPA that they have adopted laws, regulations, and policies at least as stringent as federal laws, regulations, and policies; and

Whereas, The individual states are best able to administer and enforce these environmental laws for the benefit of all of their citizens and the citizens of the United States in general; and

Whereas, the EPA and the states have bilaterally developed policy agreements over the past twenty-five years that reflect the roles of the states and the EPA, recognizing that the primary responsibility for enforcement action resides with the individual states, with EPA taking enforcement action principally where an individual state requests assistance or is unwilling or unable to take timely and appropriate enforcement action; and

Whereas, Inconsistent with these policy agreements, the EPA has levied fines and penalties against regulated entities in cases where the state previously took appropriate action consistent with the agreements to bring such entities into compliance; and

Whereas, Colorado statutes give authority to the appropriate state agencies for the administration and enforcement of state and federal environmental laws; and

Whereas, The EPA continues to enforce federal environmental laws despite Colorado's primacy and has acted in areas of violations where the state has already acted; and

Whereas, The EPA has been unwilling to recognize the importance of Colorado's ability to develop methods for the state to meet the standards established by the EPA and federal environmental laws while recognizing state and local concerns and circumstances unique to Colorado; and

Whereas, A cooperative effort between the state and the EPA is essential to ensure such consistency while making certain to consider state and local concerns; and

Whereas, The EPA has been hesitant to recognize that economic incentives and rewarding compliance are acceptable alternatives to acting only after violations have occurred; and

Whereas, The EPA's current enforcement practices and policies result in detailed oversight and over-filing of state actions causing the weakening of Colorado's ability to take effective compliance actions and resolve environmental issues; and

Whereas, The current EPA enforcement policy and actions have had and continue to have an adverse impact on working relationships between the EPA and Colorado and many other western states; and

Whereas, The Western Governors' Association has adopted "Principles for Environmental Protection in the West" which encourages collaboration and not polarization between the EPA and the states, and further encourages the replacement of the command and control structure of the EPA with economic incentives encouraging results and environmental decisions that weigh costs against benefits in taking actions; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein:*

(1) That we ask Congress to require the EPA to recognize that the State of Colorado has the requisite authority, expertise, experience, and resources to administer delegated federal environmental programs by:

(a) Affording Colorado flexibility and deference in the administration and enforcement of delegated federal environmental programs;

(b) Refraining from over-filing against recognized violators where Colorado has negotiated a compliance action in accordance with its approved EPA management systems, so long as that compliance action achieves compliance with applicable requirements; and

(c) Allowing Colorado the ability to develop plans for achieving national environmental standards established by the EPA that are tailored to meet local conditions and priorities.

(2) That we ask Congress to require the EPA to enter into memoranda of understanding with the individual states that outline performance and set joint goals and measures to ensure compliance with federal environmental laws while recognizing that states that have achieved primacy in environmental programs have the right to direct compliance actions.

(3) That we ask Congress to require the EPA to develop policies and practices that recognize that:

(a) Successful environmental policy and implementation are best accomplished through balanced, open, inclusive approaches where the public and private stakeholders work together to formulate locally-based solutions to environmental issues;

(b) Threats of enforcement action to force compliance with specific technology or processes may not result in environmental protection but, instead, reward delay and litigation, cripple incentives for technological innovation, increase animosity between government, industry, and the public, and increase the cost of environmental protection; and

(c) Effective management of environmental compliance is dependent upon the EPA shifting its focus from threats of enforcement action to one of compliance and the use of all available technologies, tools, and actions of the individual states. Be it further

*Resolved*, That copies of this resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Colorado's Congressional Delegation, the Director of the Environmental Protection Agency, the Director of the Environmental Protection Agency's Office of Enforcement and Compliance Assistance, and the Regional Administrator of EPA Region VIII.

POM-220. A joint resolution adopted by the General Assembly of the State of Colorado relative to the labeling of agricultural products; to the Committee on Agriculture, Nutrition, and Forestry.

#### HOUSE JOINT RESOLUTION 99-1043

Whereas, It is essential that consumers have access to accurate facts to make informed choices about the food they purchase; and

Whereas, Current federal legislation requires country-of-origin labeling on frozen produce, but not on meat, poultry, or fresh produce, which creates a confusing double standard for consumers; and

Whereas, The current United States Department of Agriculture policy of placing a grading label on imported meats misleads consumers who believe the label means that the product was produced in the United States; and

Whereas, Many of the trading partners for the United States require country-of-origin labels on food products produced in the United States; and

Whereas, It is estimated that 95% of the 625 million pounds of meat imported into the United States annually is imported for the purpose of additional processing and is therefore exempt from import labeling provisions of the federal "Pure Food and Drug Act"; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein:*

(1) That the General Assembly requests that the United States Congress pass legislation requiring labels that disclose the country of origin on meats, poultry, and fresh produce; and

(2) That the General Assembly requests that the United States Congress pass legislation prohibiting meat and cattle raised or produced outside of the United States and destined for immediate slaughter from carrying the United States Department of Agriculture quality grade label; and be it further

*Resolved, That copies of this resolution be sent to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, each member of the Congressional delegation from Colorado, the Secretary of the United States Department of Agriculture, and the Federal Trade Commission.*

POM-221. A joint resolution adopted by the General Assembly of the State of Colorado relative to the "Regional Haze Rule"; to the Committee on Environment and Public Works.

#### HOUSE JOINT RESOLUTION 99-1047

Whereas, The federal Environmental Protection Agency (EPA) has promulgated the "Regional Haze Rule" which has general national applicability as well as containing alternative provisions that Colorado and other western states may utilize to deal with regional haze problems; and

Whereas, The Grand Canyon Visibility Transport Commission, comprised of the states of Colorado, Arizona, California, New Mexico, Nevada, Oregon, Utah, and Wyoming and the Acoma, Hopi, Hualapai, and Navaho tribe, as well as federal agencies, industry, and environmental groups, spent over 9 million dollars and 3 years of detailed study and analysis to directly address regional haze problems and issued their findings in the 1996 report entitled, "Recommendations for Improving Western Vistas"; and

Whereas, The federal "Regional Haze Rule" ignores the primary recommendations of the Grand Canyon Visibility Transport Commission to seek to improve haze by regulating all sources of haze, including visibility impairing emissions arising from federal lands; and

Whereas, The Grand Canyon Visibility Transport Commission found that unless emissions from all sources of haze are reduced, a recognizable improvement in visibility cannot be achieved; and

Whereas, Colorado is a receptor of haze attributable to upwind sources such as emissions from fires on federal lands, the Republic of Mexico, and sources located in other states; and

Whereas, Colorado has participated since 1996 with other western states in the Western Regional Air Partnership (WRAP), formed as the successor body to implement the Grand Canyon Visibility Transport Commission's comprehensive regional approach to control all sources of regional haze; and

Whereas, As the alternative regional provisions mandated in the "Regional Haze Rule"

prevent Colorado from receiving credit in its state implementation plan (SIP) for controlling sources of haze other than stationary sources which the Grand Canyon Visibility Transport Commission report found are not a primary cause of western haze; and

Whereas, Prior to the promulgation of the "Regional Haze Rule", in violation of procedural fair play, the EPA made major substantive changes to the draft rule without making those changes available for public comment; and

Whereas, The United States Congress, in the 1998-99 EPA appropriations measure, specifically recommended to the EPA that the entire "Regional Haze Rule" be redrafted and made available for full public participation and comment on the substantive draft changes; and

Whereas, Amendments by other agencies and by other persons identified as representing "western state interests" to the draft rule were offered by the EPA without the opportunity for the general public to comment and without allowing for states that participated in the WRAP to receive credit in their SIPs for regulating sources of haze other than stationary sources; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein:*

(1) That the United States Congress is urged to subject the "Regional Haze Rule" to congressional rule review, to reject the rule, and return it to the EPA for proper participation by all interested parties prior to promulgation in accordance with the requirements of the federal "Administrative Procedures Act."

(2) That the member of the General Assembly respectfully request the Governor of Colorado to withdraw from participation in the WRAP until such time as the "Regional Haze Rule" is revised to allow for effective participation of the state of Colorado in control of all sources of haze on an equal basis; and be it further

*Resolved, That copies of this resolution be sent to the Governor of the State of Colorado, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Colorado's Congressional Delegation, the Director of the Environmental Protection Agency, the Director of the Environmental Protection Agency's Office of Enforcement and Compliance Assistance, and the Regional Administrator of EPA Region VIII.*

POM-222. A joint resolution adopted by the General Assembly of the State of Colorado relative to the Endangered Species Act of 1973; to the Committee on Environment and Public Works.

#### HOUSE JOINT RESOLUTION 99-1051

Whereas, the "Endangered Species Act of 1973" (ESA) needs to be amended to encourage proactive species conservation efforts at the state level rather than reactive, burdensome, and costly efforts at the federal level; and

Whereas, Merely listing a species as threatened or endangered does little to conserve the species; and

Whereas, Many state programs such as Colorado's nongame program have been very successful in conserving species such as the boreal toad without a federal listing; and

Whereas, The ESA should provide incentives for states to adopt proactive approaches to avoid the listing of species under the ESA rather than penalizing such efforts; and

Whereas, The ESA should be amended to provide that a federal listing is not required

where a state has already adopted a program to protect the species unless it is absolutely necessary to avoid nationwide extinction; and

Whereas, If a state has an effective program to protect a listed species in place, that program should be recognized as a reasonable and prudent alternative under the ESA, thereby providing a cost-effective means for species recovery, maintaining state jurisdiction over land and water resources, and allowing economic development to move forward; and

Whereas, States should not be penalized for efforts to enhance or establish populations of species by federal pre-emption once the species is listed, rather, such populations should qualify as experimental under the ESA, thereby maintaining control and regulation of the species by the state; and

Whereas, The ESA should not be applied retroactively, and projects in existence prior to the passage of the ESA that may come up for a federal permit or license renewal but do not involve an expansion of the project or an increase in the environmental impact of the project should not be subject to consultation under Section 7 of the ESA; and

Whereas, Federal implementation of the ESA to protect aquatic species must consider state water rights, and any recovery program should be structured to avoid or minimize intrusion into state authority over water allocation and administration; and

Whereas, The administration's "No Surprises" policy should be adopted as an amendment to the ESA so that permit holders and landowners have some assurance that once ESA requirements have been met, no further mitigation efforts will be required; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado (The Senate concurring herein), That we, the members of the Sixty-second General Assembly, urge Congress to adopt these amendments to the federal "Endangered Species Act of 1973"; and be it further*

*Resolved, That a copy of this resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of Colorado's Congressional delegation.*

POM-223. A joint resolution adopted by the Legislature of the State of Nevada relative to air tours over the Grand Canyon; to the Committee on Commerce, Science, and Transportation.

#### SENATE JOINT RESOLUTION NO. 21

Whereas, Tourism is the mainstay of the Nevada economy; and

Whereas, The air tour industry is an exciting and strong attraction for visitors to Southern Nevada; and Air tours over the Grand Canyon have been a tourism tradition for more than 70 years and this industry has maintained a strong safety record; and

Whereas, Approximately 800,000 visitors from around the world enjoyed air tours of the Grand Canyon in 1996 and 500,000 of those visitors originated their flights in Southern Nevada; and

Whereas, Air tours are the only way that persons who have certain physical disabilities can experience the grandeur of the Grand Canyon; and

Whereas, In 1996, a study conducted by the University of Nevada, Las Vegas, estimated that air tourism to the Grand Canyon using Southern Nevada air tour operators contributed more than \$374.8 million to the Southern Nevada economy; and

Whereas, The study concluded that the Las Vegas Convention and Visitors Authority generates air tour industry expenditures of \$49.8 million each year; and

Whereas, The study determined that more than 142,000 foreign visitors, which constitutes 32.4 percent of all foreign visitors, and more than 9,000 visitors from the United States, which constitutes 23.7 percent of all visitors from within the United States, would forego visits to Southern Nevada if the Grand Canyon air tours were unavailable; and

Whereas, Recent economic downturns in Asia have adversely impacted tourism in Southern Nevada; and

Whereas, The air tour industry provides visual access to back country of the Grand Canyon including many of its most spectacular sights, and without air tours, only a small minority of visitors who have the time and physical ability to hike in the canyon would be afforded the opportunity to appreciate these magnificent sights; and

Whereas, Air tours do not cause a permanent negative impact on the fragile environment of the Grand Canyon as do some other activities; and

Whereas, In 1988, Special Federal Aviation Regulation 50-2 was enacted establishing routes, altitudes and reporting requirements and as a result of this legislation, noise complaints have been dramatically reduced and there has been a substantial restoration of natural quiet to the Grand Canyon; and

Whereas, Since the enactment of the requirements of this regulation, 92 percent of visitors to the park have reported that they were not adversely affected by aircraft sounds, and visitors to the back country have reported seeing or hearing only one or two aircraft a day; and

Whereas, The United States Forest Service concluded in 1992 that there were "few adverse impacts to wilderness users" from aircraft tours and that the flights did not impair the overall enjoyment of the wilderness or reduce the likelihood of repeat visits; and

Whereas, A hearing held on September 2, 1998, by the House National Parks and Public Lands Subcommittee disclosed that the National Park Service noise analysis failed to undergo scientific modeling or peer review; and

Whereas, The National Park Service disclosed on February 2, 1999, its intention to redefine the threshold for substantial restoration of natural quiet in the air tour space of Grand Canyon National Park at a noticeability level of 8 decibels below natural ambient air sound; and

Whereas, Air tour operators and acoustical experts conclude that this higher threshold proposed by the National Park Service would virtually shut down air tours in the east end air space of the Grand Canyon National Park; and

Whereas, The Federal Aviation Administration now proposes to conduct an environmental assessment of air routes from Las Vegas to the Grand Canyon based solely on sound that could lead to further restriction or capping of flights; and

Whereas, The Nevada Congressional Delegation, the Nevada Commission on Tourism, the Las Vegas Convention and Visitors Authority and McCarran International Airport repeatedly have supported maintaining a viable Southern Nevada air tour industry and continued air access to and from Las Vegas; now, therefore, be it

*Resolved by the Senate and Assembly of the State of Nevada (jointly),* That the Nevada Legislature expresses its concern regarding any proposal to redefine the space in which aircraft may be flown over the Grand Canyon and urges the Congress of the United States to effect an outcome for the Southern Nevada air tour industry that will protect, support and sustain the viability of this significant contributor to the tourism economy of the State of Nevada and the enjoyment of visitors and sightseers; and be it further

*Resolved,* That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the Grand Canyon Air Tour Council and the United States Air Tour Association; and be it further

*Resolved,* That this resolution becomes effective upon passage and approval.

POM-224. A resolution adopted by the House of the Legislature of the State of Michigan relative to the "Nuclear Waste Policy Act of 1999"; to the Committee on Energy and Natural Resources.

#### HOUSE RESOLUTION NO. 40

Whereas, Enactment of H.R. 45, the Nuclear Waste Policy Act of 1999, would allow movement of spent nuclear fuel from 78 individual locations in 35 states to a single location. A permanent underground repository is needed to provide safe and secure long-term disposal of this spent fuel and waste; and

Whereas, The deadline for acceptance of spent fuel and waste by the Department of Energy was one year ago. H.R. 45 would accelerate acceptance of spent fuel and waste by the Department of Energy by authorizing an interim storage facility at Yucca Mountain; and

Whereas, Michigan residents deserve protection of the \$323.8 million investment they have made toward the construction of a permanent site. They have every right to demand that the federal government honor its commitment to the nation in a timely and cost-effective manner. There can be no further delay in carrying out the provisions of the Nuclear Waste Policy Act of 1982. Michigan residents are entitled to the safety and economic benefit to be gained by permanent disposal; now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the Congress of the United States to enact the Nuclear Waste Policy Act of 1999; and be it further

*Resolved,* That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-225. A concurrent resolution adopted by the Legislature of the State of Michigan relative to the "World War II Memorial Completion Act"; to the Committee on Veterans' Affairs.

#### HOUSE CONCURRENT RESOLUTION NO. 35

Whereas, Public Law 103-32, signed in 1993, authorized the establishment of a memorial to the valor of World War II veterans. The men and women who fought and who died during the century's darkest hours to secure the freedoms we enjoy today command our lasting gratitude. Their supreme sacrifices continue to touch every American. The World War II Memorial is a small but important step in repaying the immeasurable debt we owe these individuals. Many of these men and women have continued serving their country in community service organizations, such as the Veterans of Foreign Wars and the American Legion. This legislation set in motion a long process of securing support, establishing a site and design, and working with the American Battle Monuments Commission and the National Park Service to bring this project to completion; and

Whereas, In an effort to expedite the establishment of this memorial and to ensure adequate funding for its repair and maintenance in perpetuity, Congress has before it H.R. 1247, the World War II Memorial Completion Act. This bill addresses a variety of issues,

especially refining powers and purposes of the fund created to handle the collection and disbursement of money, including the authority to borrow, as well as the protection of intellectual property and licensing rights related to the memorial; and

Whereas, The World War II Memorial, which is to be located in the National Mall in Washington, is an important expression of the nation's debt to a remarkable generation. The World War II Memorial Completion Act will play a vital role in ensuring the success of this venture to perpetuate for future generations the memory of valor and sacrifices that must never be forgotten, now, therefore, be it;

*Resolved by the House of Representatives (the Senate concurring),* That we memorialize the Congress of the United States to enact the World War II Memorial Completion Act. We urge all parties involved to work cooperatively toward the completion of this important piece of our country's history; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-226. A resolution adopted by the House of the Legislature of the State of Michigan relative to the "World War II Memorial Completion Act"; to the Committee on Veteran's Affairs.

#### HOUSE RESOLUTION NO. 101

Whereas, Public Law 103-32, signed in 1993, authorized the establishment of a memorial to the valor of World War II veterans. The men and women who fought and who died during the century's darkest hours to secure the freedoms we enjoy today command our lasting gratitude. Their supreme sacrifices continue to touch every American. The World War II Memorial is a small but important step in repaying the immeasurable debt we owe these individuals. Many of these men and women have continued serving their country in community service organizations, such as the Veterans of Foreign Wars and the American Legion. This legislation set in motion a long process of securing support, establishing a site and design, and working with the American Battle Monuments Commission and the National Park Service to bring this project to completion; and

Whereas, In an effort to expedite the establishment of this memorial and to ensure adequate funding for its repair and maintenance in perpetuity, Congress has before it H.R. 1247, the World War II Memorial Completion Act. This bill addresses a variety of issues, especially refining powers and purposes of the fund created to handle the collection and disbursement of money, including the authority to borrow, as well as the protection of intellectual property and licensing rights related to the memorial; and

Whereas, The World War II Memorial, which is to be located on the National Mall in Washington, is an important expression of the nation's debt to a remarkable generation. The World War II Memorial Completion Act will play a vital role in ensuring the success of this venture to perpetuate for future generations the memory of valor and sacrifices that must never be forgotten; now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the Congress of the United States to enact the World War II Memorial Completion Act. We urge all parties involved to work cooperatively toward the completion of this important piece of our country's history; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United

States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GORTON, from the Committee on Appropriations, without amendment:

S. 1292. An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106-99).

#### EXECUTIVE REPORTS OF A COMMITTEE

The following executive reports of a committee were submitted:

By Mr. WARNER, for the Committee on Armed Services:

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 1552 and 12203:

##### *To be brigadier general*

Col. Edward W. Rosenbaum (Retired), 0000

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

##### *To be major general*

John A. Bradley, 0000  
Gerald P. Fitzgerald, 0000  
Edward J. Mechenbier, 0000  
Allan R. Poulin, 0000  
Larry L. Twitchell, 0000

##### *To be brigadier general*

Thomas L. Carter, 0000  
Richard C. Collins, 0000  
John M. Fabry, 0000  
Hugh H. Forsythe, 0000  
Michael F. Gjede, 0000  
Leon A. Johnson, 0000  
Howard A. McMahan, 0000  
Douglas S. Metcalf, 0000  
Jose M. Portela, 0000  
Peter K. Sullivan, 0000  
David H. Webb, 0000

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

##### *To be major general*

Archie J. Berberian II, 0000  
Verna D. Fairchild, 0000  
Daniel J. Gibson, 0000

##### *To be brigadier general*

George C. Allen II, 0000  
Roger E. Combs, 0000  
Michael A. Cushman, 0000  
Thomas N. Edmonds, 0000  
Jared P. Kennish, 0000  
Paul S. Kimmel, 0000  
Virgil W. Lloyd, 0000  
Alexander T. Mahon, 0000  
Marvin S. Mayes, 0000  
David E. McCutchin, 0000  
Calvin L. Moreland, 0000  
Mark R. Musick, 0000  
John D. Rice, 0000  
Robert O. Seifert, 0000  
Lawrence A. Sittig, 0000  
James M. Skiff, 0000

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

##### *To be lieutenant general*

Lt. Gen. William J. Begert, 0000

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

##### *To be lieutenant general*

Maj. Gen. Charles R. Holland, 0000

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

##### *To be lieutenant general*

Lt. Gen. Maxwell C. Bailey, 0000

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

##### *To be major general*

Brig. Gen. Alan D. Johnson, 0000

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

##### *To be lieutenant general*

Maj. Gen. Donald L. Kerrick, 0000

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

##### *To be major general*

Brig. Gen. James M. Collins, Jr., 0000  
Brig. Gen. Robert W. Smith III, 0000

##### *To be brigadier general*

Col. Dennis J. Laich, 0000  
Col. Robert B. Ostenberg, 0000  
Col. Ronald D. Silverman, 0000

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

##### *To be major general*

Robert E. Armbruster, Jr., 0000  
Joseph L. Bergantz, 0000  
William L. Bond, 0000  
Colby M. Broadwater III, 0000  
Richard A. Cody, 0000  
John M. Curran, 0000  
Dell L. Dailey, 0000  
John J. Deyermond, 0000  
Larry J. Dodgen, 0000  
James M. Dubik, 0000  
Richard A. Hack, 0000  
Russel L. Honore, 0000  
Roderick J. Isler, 0000  
Terry E. Juskowiak, 0000  
Geoffrey C. Lambert, 0000  
James J. Lovelace, Jr., 0000  
Wade H. McManus, Jr., 0000  
William H. Russ, 0000  
Walter L. Sharp, 0000  
Toney Stricklin, 0000  
John R. Vines, 0000  
Robert W. Wagner, 0000  
Craig B. Wheldon, 0000  
R. Steven Whitcomb, 0000  
Robert Wilson, 0000  
Joseph L. Yakovac, Jr., 0000

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

##### *To be brigadier general, Chaplain Corps*

Col. David H. Hicks, 0000

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

##### *To be lieutenant general*

Lt. Gen. Thomas N. Burnette, Jr., 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of im-

portance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Maj. Gen. Billy K. Solomon, 0000

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

##### *To be brigadier general*

Col. Harry B. Axson, Jr., 0000  
Col. Guy M. Bourn, 0000  
Col. Ronald L. Burgess, Jr., 0000  
Col. Remo Butler, 0000  
Col. William B. Caldwell IV, 0000  
Col. Randal R. Castro, 0000  
Col. Stephen J. Curry, 0000  
Col. Robert L. Decker, 0000  
Col. Ann E. Dunwoody, 0000  
Col. William C. Feyk, 0000  
Col. Leslie L. Fuller, 0000  
Col. David F. Gross, 0000  
Col. Edward M. Harrington, 0000  
Col. Keith M. Huber, 0000  
Col. Galen B. Jackman, 0000  
Col. Jerome Johnson, 0000  
Col. Ronald L. Johnson, 0000  
Col. John F. Kimmons, 0000  
Col. William M. Lenaers, 0000  
Col. Timothy D. Livsey, 0000  
Col. James A. Marks, 0000  
Col. Michael R. Mazzucchi, 0000  
Col. Stanley A. McChrystal, 0000  
Col. David F. Melcher, 0000  
Col. Dennis C. Moran, 0000  
Col. Roger Nadeau, 0000  
Col. Craig A. Peterson, 0000  
Col. James H. Pillsbury, 0000  
Col. Gregory J. Premo, 0000  
Col. Kenneth J. Quinlan, Jr., 0000  
Col. Fred D. Robinson, Jr., 0000  
Col. James E. Simmons, 0000  
Col. Stephen M. Speakes, 0000  
Col. Edgar E. Stanton III, 0000  
Col. Randal M. Tieszen, 0000  
Col. Bennie E. Williams, 0000  
Col. John A. Yingling, 0000

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

##### *To be lieutenant general*

Lt. Gen. Carlton W. Fulford, Jr., 0000

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

##### *To be rear admiral (lower half)*

Capt. David J. Antanitus, 0000  
Capt. Dale E. Baugh, 0000  
Capt. Richard E. Brooks, 0000  
Capt. Evan M. Chanik, Jr., 0000  
Capt. Barry M. Costello, 0000  
Capt. Kirkland H. Donald, 0000  
Capt. Dennis M. Dwyer, 0000  
Capt. Mark J. Edwards, 0000  
Capt. Bruce B. Engelhardt, 0000  
Capt. Tom S. Fellin, 0000  
Capt. James B. Godwin III, 0000  
Capt. Charles H. Johnston, Jr., 0000  
Capt. John M. Kelly, 0000  
Capt. Steven A. Kunkle, 0000  
Capt. Willie C. Marsh, 0000  
Capt. George E. Mayer, 0000  
Capt. John G. Morgan, Jr., 0000  
Capt. Dennis G. Morral, 0000  
Capt. Eric T. Olson, 0000  
Capt. James J. Quinn, 0000  
Capt. Ann E. Rondeau, 0000  
Capt. Frederick R. Ruehe, 0000  
Capt. Lindell G. Rutherford, 0000  
Capt. John D. Stufflebeem, 0000  
Capt. William D. Sullivan, 0000  
Capt. Gerald L. Talbot, Jr., 0000  
Capt. Hamlin B. Tallent, 0000  
Capt. Richard P. Terpstra, 0000  
Capt. Thomas J. Wilson III, 0000

Capt. James M. Zortman, 0000

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

*To be rear admiral*

Rear Adm. (lh) Raymond A. Archer III, 0000  
Rear Adm. (lh) Justin D. McCarthy, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Darold F. Bigger, 0000  
Capt. Fenton F. Priest III, 0000

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

*To be rear admiral (lower half)*

Capt. Donald C. Arthur, Jr., 0000  
Capt. Linda J. Bird, 0000  
Capt. Michael K. Loose, 0000  
Capt. Richard A. Mayo, 0000  
Capt. Joseph P. Vanlandingham, Jr., 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Robert M. Clark, 0000  
Capt. Mark M. Hazara, 0000  
Capt. John R. Hines, Jr., 0000  
Capt. James Manzelmann, Jr., 0000  
Capt. Noel G. Preston, 0000  
Capt. Howard K. Unruh, Jr., 0000

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

*To be admiral*

Vice Adm. Vernon E. Clark, 0000

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

*To be admiral*

Vice Adm. Thomas B. Fargo, 0000

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably nomination lists which were printed in the RECORDS of April 21, 1999, May 12, 1999, May 19, 1999, May 26, 1999, June 7, 1999 and June 9, 1999, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

In the Navy nominations beginning Sylvester P. Abramowicz, Jr., and ending Shelley W. S. Young, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1999.

In the Navy nominations beginning Bruce A. Abbott, and ending Bertrand L. Zeller, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1999.

In the Navy nominations beginning Thomas Abernethy, and ending Paul M. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1999.

In the Navy nominations beginning Sevak Adamian, and ending John E. Young, which nominations were received by the Senate and

appeared in the Congressional Record of May 12, 1999.

In the Army nominations beginning Michael R. Collyer, and ending Renee M. Ponce, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1999.

In the Navy nomination of Theodore H. Brown, which was received by the Senate and appeared in the Congressional Record of May 19, 1999.

In the Air Force nominations beginning \*Raam R. Aalgaard, and ending Steven R. Zwicker, which nominations were received by the Senate and appeared in the Congressional Record of May 26, 1999.

In the Navy nominations beginning Richard W. Bauer, and ending Derek K. Webster, which nominations were received by the Senate and appeared in the Congressional Record of May 26, 1999.

In the Navy nominations beginning Robert A. Yourek, and ending Lorenzo D. Brown, which nominations were received by the Senate and appeared in the Congressional Record of May 26, 1999.

In the Navy nominations beginning Douglas W. Maccree, and ending Mladen K. Vranjican, which nominations were received by the Senate and appeared in the Congressional Record of May 26, 1999.

In the Army nomination of Michael L. McGinnis, which was received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Marine Corps nomination of Loston E. Carter, which was received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Marine Corps nomination of Jack A. Maberry, which was received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Navy nomination of James N. Frame, which was received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Navy nominations beginning Nils S. Erikson, and ending Edward C. Zeigler, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Navy nominations beginning Thor D. Aakre, and ending Mary M. Zurowski, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 1999.

In the Navy nominations beginning Sheila A. R. Robbins, and ending Daniel E. Wilburn, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 1999.

#### 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. BINGAMAN:

S. 1288. A bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SESSIONS (for himself and Mr. COVERDELL):

S. 1289. A bill to amend the Internal Revenue Code of 1986 to provide that the capital gain treatment under section 631(b) of such Code shall apply to outright sales of timber held for more than 1 year; to the Committee on Finance.

By Mr. INOUE (for himself, Mr. DOMENICI, Mr. DORGAN, Mr. CONRAD,

Mr. BINGAMAN, Mr. JOHNSON, Mr. DASCHLE, and Mr. AKAKA):

S. 1290. A bill to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. DEWINE:

S. 1291. A bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax for certain expenses for long-term training of employees in highly skilled small business trades; to the Committee on Finance.

By Mr. GORTON:

S. 1292. An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. COCHRAN:

S. 1293. A bill to establish a Congressional Recognition for Excellence in Arts Education Board; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUE (for himself, Mr. AKAKA, and Mr. HOLLINGS):

S. 1294. A bill to direct the Administrator of the Federal Aviation Administration to issue regulations to limit the number of pieces of carry-on baggage that a passenger may bring on an airplane; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 1295. A bill to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the "Lance Corporal Harold Gomez Post Office"; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for Mr. LAUTENBERG (for himself, Mr. TORRICELLI, and Mr. SANTORUM)):

S. 1296. A bill to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1288. A bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

COMMUNITY FOREST RESTORATION ACT

Mr. BINGAMAN. Mr. President I rise today to introduce the Community Forest Restoration Act of 1999. This legislation provides incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico.

The densely stocked stands of small diameter trees in New Mexico present an increasing danger of catastrophic wildfire that endangers peoples' lives and livelihoods. These conditions dramatically reduce plant and animal biological diversity, decrease watershed productivity, and provide fewer benefits to people. Healthy, productive watersheds minimize the threat of catastrophic wildfire, provide diverse wildlife habitat, and produce a variety of timber and non-timber products including better quality water and increased water flows.

My goal is to promote healthy watersheds and reduce the threat of catastrophic wildfire, insect infestation, and disease in the forests in New Mexico. To do this we must restore and maintain the forest ecosystem by reducing the unnaturally high number of small diameter trees on Federal, State, and tribal forest lands, and improve the utilization of small diameter material.

This legislation directs the Secretary of Agriculture to create a program that provides forest restoration demonstration project grants to community organizations. The intent of the program is to encourage innovation and collaboration on forest restoration projects among stakeholders at the local level, and provide for multi-party assessment of those projects.

Forest restoration activities that empower local organizations to implement activities which value local and traditional knowledge can help build ownership and civic pride, and can lead to healthy, diverse, productive forest ecosystems. This approach will encourage the development of industries which are based on the creation and maintenance of healthy forest ecosystems. This bill will encourage sustainable community development through collaborative partnerships that improve communication and joint problem solving. The objective of these partnerships is to restore the forests of New Mexico by reducing the density of stands that contain an unnaturally high number of small diameter trees and improving the use of those trees.

Mr. President, I ask unanimous consent to print the text of the bill in the RECORD.

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

S. 1288

*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 "Community Forest Restoration Act".

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) forest lands in New Mexico that are densely stocked with small diameter, even-aged trees can erupt in catastrophic wildfire that can endanger human lives and livelihoods;

(2) forest lands that are densely stocked with small diameter trees can reduce biodiversity and provide fewer benefits to human communities, wildlife, and watersheds;

(3) healthy and productive watersheds minimize the threat of catastrophic wildfire, provide abundant and diverse wildlife habitat, and produce a variety of timber and non-timber products including better quality water and increased water flows;

(4) restoration efforts are more successful when there is involvement from neighboring communities and better stewardship will evolve from more diverse involvement; and

(5) designing demonstration restoration projects through a collaborative approach may—

(A) lead to the development of cost effective restoration activities;

(B) empower diverse organizations to implement activities which value local and traditional knowledge;

(C) build ownership and civic pride; and

(D) ensure healthy, diverse, and productive forests and watersheds.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote healthy watersheds and reduce the threat of catastrophic wildfire, insect infestation, and disease in the forests in New Mexico;

(2) to improve the functioning of forest ecosystems and enhance plant and wildlife biodiversity by reducing the unnaturally high number and density of small diameter trees on Federal, State, and tribal forest lands;

(3) to improve communication and joint problem solving among individuals and groups who are interested in restoring the diversity and productivity of forested watersheds in New Mexico;

(4) to promote the use of small diameter trees; and

(5) to encourage sustainable community and sustainable forests through collaborative partnerships, whose objectives are forest restoration.

#### SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "Secretary" means the Secretary of Agriculture acting through the Chief of the Forest Service; and

(2) the term "stakeholder" includes: tribal governments, educational institutions, landowners, and other interested public and private entities.

#### SEC. 5. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall establish a cooperative forest restoration program in New Mexico in order to provide cost-share grants to stakeholders for experimental forest restoration projects that are designed through a collaborative process (hereinafter referred to as the "Collaborative Forest Restoration Program"). The Federal share of an individual project cost shall not exceed eighty percent of the total cost.

(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive funding under this Act, a project shall—

(1) achieve one or more of the following objectives—

(A) reducing the danger of catastrophic wildfire and re-introducing natural fire regimes on Federal, State, or tribal forest lands;

(B) restoring healthy, biologically diverse, and productive watersheds on Federal, State, or tribal forest lands or

(C) improving the use of, or add value to, small diameter trees;

(2) comply with all Federal and State environmental laws;

(3) include a diverse and balanced group of stakeholders as well as appropriate Federal, State, and tribal government representatives in the design, implementation, and monitoring of the project;

(4) incorporate current scientific forest restoration information;

(5) include a multi-party assessment to report, upon project completion, on the impact and effectiveness of the project including improvements in local management skills and on the ground results;

(6) create local employment training opportunities within the context of accomplishing restoration objectives, that are consistent with the purposes of this Act, including summer youth jobs programs such as the Youth Conservation Corps where appropriate;

(7) not exceed four years in length;

(8) not cost more than \$150,000 annually nor \$450,000 total;

(9) leverage Federal funding through in-kind or matching contributions; and

(10) include an agreement by the stakeholders that they will attend an annual workshop with other groups that receive funding pursuant to this Act.

#### SEC. 6. SELECTION PROCESS.

(a) After consulting with the technical advisory panel established in subsection (b), the Secretary shall select the proposals that will receive funding through the Collaborative Forest Restoration Program.

(b) The Secretary shall convene a technical advisory panel to evaluate the proposals for forest restoration grants and provide recommendations regarding which proposals would best meet the objectives of the Collaborative Forest Restoration Program. The technical advisory panel shall consider current scientific forest restoration information, the effect on long term management, and seek to use a consensus-based decision making process to develop such recommendations. The panel shall be composed of 12 to 15 members to be appointed by the Secretary as follows:

(1) a State Natural Resource official from the State of New Mexico;

(2) at least two representatives from Federal land management agencies;

(3) at least one tribal or pueblo representative;

(4) at least one academic or other scientist, qualified to address issues of southwestern forest ecology; and

(5) equal representation from

(1) conservation interests;

(2) local communities; and

(3) commodity interests.

#### SEC. 7. MONITORING AND EVALUATION.

The Secretary shall establish a multi-party monitoring and evaluation process in order to assess the cumulative accomplishments of the Collaborative Forest Restoration Program. The Secretary shall include any interested individual or organization in the monitoring and evaluation process.

#### SEC. 8. REPORT.

No later than five years after the first fiscal year in which funding is made available for this program, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States House of Representatives. The report shall include an assessment on whether, and to what extent, the projects funded pursuant to this Act are meeting the purposes of the Collaborative Forest Restoration Program.

By Mr. SESSIONS (for himself and Mr. COVERDELL):

S. 1289. A bill to amend the Internal Revenue Code of 1986 to provide that the capital gain treatment under section 631(b) of such Code shall apply to outright sales of timber held for more than 1 year; to the Committee on Finance.

#### TIMBER TAX SIMPLIFICATION ACT OF 1999

Mr. SESSIONS. Mr. President, I rise today to introduce legislation which will simplify and update a provision of the Tax Code that affects the sale of timber. It is both a simplification measure and a fairness measure. We call it the Timber Tax Simplification Act of 1999.

Under the current law, landowners who are occasional sellers of timber are often classified by the Internal Revenue Service as "dealers." As a result, the small landowner is forced to choose, because of the Tax Code, a method of selling timber that they

may not prefer. Fundamentally, there are two methods of selling timber. The first method is known as "lump sum" sales, and it is the most popular, but it is subject to a higher tax rate. The second method, pay-as-cut sales, allows for lower capital gains treatment but results in the landowner having to accept unnecessary risks throughout the timber selling process.

Why, one might ask, do these conflicting incentives exist for our Nation's timber growers? Earlier in the century, outright, or "lump sum," sales on a cash advance basis were associated with a "cut-and-run" mentality that did not promote good forest management. "Pay-as-cut" sales, in which a timber owner is only paid for timber as it is actually harvested and taken to the mill, were associated with "enlightened" resource management. Consequently, Congress, in 1943, in an effort to provide an incentive for this preferred method, passed legislation that allowed capital gains treatment under section 631(b) of the IRS Code for "pay-as-cut" plan sales, leaving the "lump sum" sales to pay a much higher rate of tax. It is said that President Roosevelt was not in favor of the bill and almost vetoed it. Ultimately, however, he signed it into law.

Today, however, section 631(b), along with many other provisions of the IRS Code, is completely outdated. Forest management practices are much different from what they were in 1943, and "lump sum" sales are no longer associated with poor forest management. Indeed, there is very little poor forest management today. People recognize the value of timberland, and timber is almost never cut without being properly replanted. While there are occasional special situations when other methods may be more appropriate, most timber owners prefer the "lump sum" method, over the "pay-as-cut" method.

The reasons are simple. When a timber sale is entered into, the title to the timber is transferred on the closing of the sale. Once a contract is assigned, the buyer, who is often a corporation, a sawmill, or a corporate timber company, assumes the risk of any physical loss to the timber due to fire, insects, disease, or storms. Furthermore, the price to be paid for the timber is determined and received by the landowner at the time of the sale.

In addition, such a "lump sum" sale best protects the rights of the landowner, by preventing delays not only in the actual cutting and harvesting of the timber, but in the receiving of payments.

Unfortunately, in order for timber owners to qualify for the favorable capital gains treatment, they are virtually forced to market their timber on a "pay-as-cut" basis under section 631(b), which requires landowners to sell their timber with a "retained economic interest." This means that the landowner, not the buyer, must bear the risk of any physical loss during the

time period contracted with the buyer to harvest the timber. Furthermore, the buyer pays for only the timber that is actually harvested. As a result, this type of sale can be subject to fraud and abuse by the timber buyer.

Since the buyer pays only for the timber that is removed and scaled, there is an incentive to waste poor quality timber—by breaking the tree during the logging process—underscale the timber, or remove the timber without scaling.

Many different valuation methods can be utilized by sophisticated buyers against a landowner; the landowner may not fully realize how the timber is being priced, and even then he is paid only when the timber is delivered to the mill at a certain complicated rate.

But because 631(b) provides for the favorable tax treatment, many landowners are forced into exposing themselves to unnecessary risk of loss and complications by having to market their timber in this manner instead of the more preferred "lump-sum" method.

Like many of the provisions in the Tax Code, section 631(b) is outdated and prevents good forestry management. Timber farmers, that have usually spent decades producing their crop, should be able to receive equal tax treatment regardless of the method used for marketing their timber.

The IRS has no business—and, in effect, it does—stepping in and dictating the kind of sales contract a landowner must choose.

The legislation I have introduced will provide greater consistency by removing the exclusive "retained economic interest" requirement in the Internal Revenue Code section 631(b). This change has been supported or suggested by a number of groups for tax simplification purposes, including positive comments from Internal Revenue Service officials who have indicated they see no reason for this present law.

The Joint Committee on Taxation has studied this legislation to consider what impact it might have on the Treasury and found that it would have no real cost—only a "negligible impact" according to their analysis.

Reform of 631(b) is important to our Nation's nonindustrial, private landowners because it will improve the economic viability of their forestry investments and protect the taxpayer from unnecessary exposure to risk of loss. This in turn will benefit the entire forest products industry, the U.S. economy, and especially the small landowners.

So I urge my colleagues to join me and Senator PAUL COVERDELL, of Georgia, who is a cosponsor of this legislation, in this effort to simplify the Tax Code and to promote good forestry management.

There is simply no longer any need for this bizarre, complex tax regulation that is driving individual landowners to make choices they would not otherwise make. Choices that cost them

money and unnecessarily shift risk in a way that ought to be decided among the parties—the buyer and the seller—and not the Internal Revenue Service.

By Mr. INOUE (for himself, Mr. DOMENICI, Mr. DORGAN, Mr. CONRAD, Mr. BINGAMAN, Mr. JOHNSON, Mr. DASCHLE, and Mr. AKAKA):

S. 1290. A bill to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes; to the Committee on Indian Affairs.

AMERICAN INDIAN EDUCATION FOUNDATION

• Mr. INOUE. Mr. President, I rise today to introduce a bill to establish an American Indian Education Foundation. I am joined by Senators DOMENICI, DORGAN, CONRAD, BINGAMAN, JOHNSON, DASCHLE and AKAKA as sponsors of this measure, because we believe that this foundation will help American Indian and Alaska native students immeasurably in the years to come.

The foundation will be a charitable, non-profit corporation that would be authorized to: (1) encourage, accept, and administer private gifts in support of the bureau of Indian Affairs' (BIA) Office of Indian Education; (2) conduct activities that will further educational opportunities of American Indians and Alaskan natives attending BIA schools; and (3) assist Federal, State, tribal, and individual entities that will further the educational opportunities of American Indians and Alaskan natives attending BIA schools.

Similar foundations, such as the National Park Foundation and the National Fish and Wildlife Foundation have been extremely successful over the past several years. This foundation is modeled after those foundations.

Indian children are the most important resource in native America. And while the bureau's elementary and secondary education facilities and curricula have improved over the past few years, there is still much that can be done to make the learning environment a better place for Indian students.

We want to motivate tribal students to look forward to school every day. We want them to be eager about learning. But realizing these objectives is difficult when students are forced to learn in dilapidated buildings with outdated books and broken-down or no computer equipment. The foundation will be a start in helping to address these problems.

There are many Americans who have asked how they can contribute to the education of Indian students, but currently, there is no formal mechanism that would enable private resources to be dedicated to the support of the bureau schools. The foundation would serve as a means for channeling private resources to provide that much-needed support.

Considerable thought has gone into the composition of the foundation. The board will consist of eleven directors

who must be knowledgeable and experienced in American Indian education. The Secretary of the Interior and the Assistant Secretary of Indian Affairs will both serve as ex officio non-voting members.

The foundation would be based in the District of Columbia and will meet at least once annually. The foundation will submit an annual report of its proceedings and activities to the Congress.

Mr. President, we feel that the foundation will provide greatly-needed opportunities to American Indian and Alaskan native students, and would urge our colleagues to support this measure.●

● Mr. DOMENICI. Mr. President, I am pleased to join Senator INOUE in sponsoring this legislation to establish the American Indian Education Foundation.

Similar foundations exist for national parks and national fish and wildlife purposes. Many Americans leave assets to benefit American Indians, but there is currently no national foundation to encourage this type of giving for the benefit of Indian children in BIA schools.

The American Indian Education Foundation would primarily benefit elementary and secondary American Indian students with books, computers, school supplies, cultural preservation programs, literacy programs, and many other worthwhile activities.

There is already a pool of about \$400,000 held by the Office of Indian Education in the Bureau of Indian Affairs (BIA). These personal assets have been donated over the years for Indian students, but there is no legal mechanism to transfer these funds to BIA schools. This legislation would allow the BIA to direct these funds to BIA schools to meet immediate education needs of today's Indian students.

I am proud to encourage this kind of targeted giving, and I am optimistic about its potential. America is a generous nation. As more Americans become aware of the spectrum of needs at BIA schools on Indian reservations, I predict a huge success for this important foundation.

I commend the Administration for developing this legislation, and I thank my friend Senator INOUE for taking the initiative to move it forward in the Senate.

I urge my colleagues to encourage private gifts to national Indian education purposes by supporting this proposed foundation.●

By Mr. COCHRAN:

S. 1293. A bill to establish a Congressional Recognition for Excellence in Arts Education Board; to the Committee on Health, Education, Labor, and Pensions.

CONGRESSIONAL RECOGNITION FOR EXCELLENCE IN ARTS EDUCATION ACT

Mr. COCHRAN. Mr. President, today I am pleased to introduce the Congressional Recognition for Excellence in Arts Education Act. The act estab-

lishes awards for schools that include the arts in their regular curriculum.

When Congress passed the Improving America's Schools Act in 1994, we found "that the arts are forms of understanding and ways of knowing that are fundamentally important to education." Since then, many professional studies have been published about the relationship of arts education to brain development, student achievement, career potential and other life quality issues.

The 1997 National Assessment of Educational Progress (NAEP) Arts Report Card was the first ever assessment of the effects of specific arts instruction and the level of fine arts skills in American students. The assessment found that music and visual arts were more likely to be taught than theater or dance, but the percentages of students actually in classes and their achievement varied widely. The report card showed that instruction improved competency and literacy; and without it, very few students were able to create or perform at an advanced or adequate level. This report card makes clear that attaining knowledge and skill in the arts is no different from becoming proficient in any school subject. While a few students are gifted, most have to be taught in order to discover and use our abilities. And gifted students also need training and learning opportunities.

The evidence of the positive effects of arts education on overall scholastic achievement is an incentive for students, parents and schools to support serious sequential course work. In 1997, The College Board reported that high school students with four or more years of arts instruction scored over 100 points higher on the Scholastic Aptitude Test than students with no arts instruction. And according to the medical publication, *Neurological Research*, a California study determined that young children with six months of keyboard instruction performed 34% higher on tests measuring temporal-spatial ability than other children.

Arts activity has been shown to lower the likelihood of delinquent behavior. In 1996, the Department of Justice and the National Endowment for the Arts began a project called YouthARTS, which developed model after-school arts programs for teenagers. The evaluation of programs in Fulton County, Georgia; Portland, Oregon; and San Antonio, Texas found that YouthARTS participants significantly decreased their delinquent behavior, increased their communication skills, and improved their ability to complete tasks. The National Dropout Prevention Center reported that school arts classes and activities encourage attendance and achievement of at-risk high school students.

Programs teaching arts in schools differ widely from state to state, and from district to district within a state. The effectiveness of the programs also varies. The Arts Education Partnership

is a private, nonprofit coalition of education, arts, business, philanthropic, and government organizations that demonstrates and promotes the essential role of arts education in enabling all students to succeed in school, life, and work. It was formed in 1995 through a cooperative agreement between the National Endowment for the Arts, the United States Education Department, the National Assembly of State Arts Agencies, and the Council of Chief State School Officers.

Mr. President, earlier this year, the Arts Education Partnership, with the President's Committee on the Arts and Humanities, released a report titled, *Gaining the Arts Advantage: Lessons From School Districts that Value Arts Education*. It is a national study of arts education in schools. Thirteen "critical success factors" of district-wide arts education programs were identified. The introduction to the report summarizes the findings this way, "the presence and quality of arts education in public schools today require an exceptional degree of involvement by influential segments of the community which value the arts in the total affairs of the school district: in governance, funding, and program delivery."

The report profiles 91 American school districts with successful arts curriculum programs. I was very pleased to find the Hattiesburg and Starkville, Mississippi school districts featured in the report.

Outside funding and the success of classes in music, drama, dance and visual arts has turned the arts into a priority in the Hattiesburg Public School District budget. Hattiesburg superintendent Dr. Gordon Walker views arts as a school responsibility to ensure that, "all students' lives are enriched and enhanced through academic achievement in the arts."

Starkville's K-12 arts programs include: theater, visual arts, music labs, television and graphic arts. Other features in their arts education plan are a design program that brings university architecture students to an elementary school and an after school program funded by a U.S. Department of Education grant. Joyce Polk, Starkville School District arts coordinator explained that a comprehensive arts education, "... improves academic achievement and results in the development of well-rounded students who are able to leave rural Mississippi and compete in prestigious college and university environments." She also attributes arts opportunities in the schools with a higher quality of life for all community members, an understanding between diverse ethnic and cultural groups, a common bond among students, and long term healthy lifestyles. I am proud of these school districts and the example they set for other American school districts.

An example of innovative efforts to support excellence and commitment in arts instruction is the Mississippi Arts Commission's Whole Schools Institute,

which began this year. The institute at Millsaps College in Jackson, Mississippi, is a week of professional development in teaching, planning and implementing new curriculum. School teams of over 150 superintendents, principals, teachers, community and business leaders had one-on-one training with nationally renowned arts educators, child and brain development researchers and arts professionals.

By recognizing the importance of arts instruction, I hope that we make arts classes in schools as common as English or math. My bill establishes the Congressional Recognition for Excellence in Arts Education (CREATE) Awards and a board to direct the activities needed to promote it, to encourage arts curriculum, and to determine eligible schools.

Mr. President, vision and excellence can't be mandated, but through legislation, such as the Congressional Recognition for Excellence in Arts Education Act, we can reward it.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 1293

*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 "Congressional Recognition for Excellence in Arts Education Act".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Arts literacy is a fundamental purpose of schooling for all students.

(2) Arts education stimulates, develops, and refines many cognitive and creative skills, critical thinking and nimbleness in judgment, creativity and imagination, cooperative decisionmaking, leadership, high-level literacy and communication, and the capacity for problem-posing and problem-solving.

(3) Arts education contributes significantly to the creation of flexible, adaptable, and knowledgeable workers who will be needed in the 21st century economy.

(4) Arts education improves teaching and learning.

(5) Where parents and families, artists, arts organizations, businesses, local civic and cultural leaders, and institutions are actively engaged in instructional programs, arts education is more successful.

(6) Effective teachers of the arts should be encouraged to continue to learn and grow in mastery of their art form as well as in their teaching competence.

(7) The 1999 study, entitled "Gaining the Arts Advantage: Lessons from School Districts that Value Arts Education", found that the literacy, education, programs, learning and growth described in paragraphs (1) through (6) contribute to successful districtwide arts education.

(8) Despite all of the literacy, education, programs, learning and growth findings described in paragraphs (1) through (6), the 1997 National Assessment of Educational Progress reported that students lack sufficient opportunity for participatory learning in the arts.

(9) The Arts Education Partnership, a coalition of national and State education, arts, business, and civic groups has demonstrated

its effectiveness in addressing the purposes described in section 5(a) and the capacity and credibility to administer arts education programs of national significance.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ARTS EDUCATION PARTNERSHIP.—The term "Arts Education Partnership" (formerly known as the Goals 2000 Arts Education Partnership) is a private, nonprofit coalition of education, arts, business, philanthropic, and government organizations that—

(A) demonstrates and promotes the essential role of arts education in enabling all students to succeed in school, life, and work; and

(B) was formed in 1995 through a cooperative agreement among—

(i) the National Endowment for the Arts;

(ii) the Department of Education;

(iii) the National Assembly of State Arts Agencies; and

(iv) the Council of Chief State School Officers.

(2) BOARD.—The term "Board" means the Congressional Recognition for Excellence in Arts Education Awards Board established under section 4.

(3) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms "elementary school" and "secondary school" mean—

(A) a public or private elementary school or secondary school (as the case may be), as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801); or

(B) a bureau funded school as defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

(4) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

#### SEC. 4. ESTABLISHMENT OF BOARD.

There is established as an independent establishment of the Federal Government a Congressional Recognition for Excellence in Arts Education Awards Board. The Board shall be responsible for administering the awards program described in section 5.

#### SEC. 5. BOARD DUTIES.

(a) AWARDS PROGRAM ESTABLISHED.—The Board shall establish and administer an awards program to be known as the "Congressional Recognition for Excellence in Arts Education Awards Program". The purpose of the program shall be to—

(1) celebrate the positive impact and public benefits of the arts;

(2) encourage all elementary schools and secondary schools to integrate the arts into the school curriculum;

(3) spotlight the most compelling evidence of the relationship between the arts and student learning;

(4) demonstrate how community involvement in the creation and implementation of arts policies enriches the schools;

(5) recognize school administrators and faculty who provide quality arts education to students;

(6) acknowledge schools that provide professional development opportunities for their teachers;

(7) create opportunities for students to experience the relationship between early participation in the arts and developing the life skills necessary for future personal and professional success;

(8) increase, encourage, and ensure comprehensive, sequential arts learning for all students; and

(9) expand accessibility of the arts to schools in every community.

(b) DUTIES.—

(1) SCHOOL AWARDS.—The Board shall—

(A) make annual awards to elementary schools and secondary schools in the States in accordance with criteria established under subparagraph (B), which awards—

(i) shall be of such design and materials as the Board may determine, including a well-designed certificate or a work of art, designed for the awards event by an appropriate artist; and

(ii) shall be reflective of the dignity of Congress;

(B) establish criteria required for a school to receive the award, and establish such procedures as may be necessary to verify that the school meets the criteria, which criteria shall include 3 of the following:

(i) the school provides comprehensive, sequential arts learning and integrates the arts throughout the curriculum;

(ii) the community serving the school is actively involved in shaping and implementing the arts policies and programs of the school;

(iii) the school principal supports the policy of arts education for all students;

(iv) arts teachers in the school are encouraged to learn and grow in mastery of their art form as well as in their teaching competence;

(v) the school actively encourages the use of arts assessment techniques for improving student, teacher, and administrative performance; and

(vi) school leaders engage the total school community in arts activities that create a climate of support for arts education; and

(C) include, in the procedures necessary for verification that a school meets the criteria described in subparagraph (B), written evidence of the specific criteria, and supporting documentation, that includes—

(i) three letters of support for the school, of which—

(I) one shall be from the school's Parent Teacher Association (PTA);

(II) one shall be from community leaders, such as elected or appointed officials; and

(III) one shall be from arts organizations or institutions in the community that partner with the school; and

(ii) the completed application for the award signed by the principal or other education leader such as a school district arts coordinator, school board member, or school superintendent;

(D) determine appropriate methods for disseminating information about the program and make application forms available to schools, which methods may include—

(i) the Arts Education Partnership web site and publications;

(ii) the Department of Education Community Update newsletter;

(iii) websites and publications of the Arts Education Partnership steering committee members;

(iv) press releases, public service announcements and other media opportunities; and

(v) direct communication by postal mail, or electronic means;

(E) delineate such roles as the Board considers to be appropriate for the Director in administering the program, and set forth in the bylaws of the Board the duties, salary, and benefits of the Director;

(F) raise funds for the operation of the program;

(G) determine, and inform Congress regarding, the national readiness for interdisciplinary individual student awards described in paragraph (2), on the basis of the 1997 National Assessment of Educational Progress arts education achievement levels; and

(H) take such other actions as may be appropriate for the administration of the Congressional Recognition for Excellence in Arts Education Awards Program.

(2) STUDENT AWARDS.—

(A) IN GENERAL.—At such time as the Board determines appropriate, the Board—

(i) shall make annual awards to elementary school and secondary school students for individual interdisciplinary arts achievement; and

(ii) establish criteria for the making of the awards.

(B) AWARD MODEL.—The Board may use as a model for the awards the Congressional Award Program and the President's Physical Fitness Award Program.

(C) PRESENTATION.—The Board shall arrange for the presentation of awards under this section to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate.

(D) DATE OF ANNOUNCEMENT.—The Board shall determine an appropriate date or dates for announcement of the awards under this section, which date shall coincide with a National Arts in Schools Week or similarly designated day, week or month, if such designation exists.

(e) REPORT.—

(1) IN GENERAL.—The Board shall prepare and submit an annual report to Congress not later than March 1 of each year summarizing the activities of the Congressional Recognition for Excellence in Arts Education Awards Program during the previous year and making appropriate recommendations for the program. Any minority views and recommendations of members of the Board shall be included in such reports.

(2) CONTENTS.—The annual report shall contain the following:

(A) Specific information regarding the methods used to raise funds for the Congressional Recognition for Excellence in Arts Education Awards Program and a list of the sources of all money raised by the Board.

(B) Detailed information regarding the expenditures made by the Board, including the percentage of funds that are used for administrative expenses.

(C) A description of the programs formulated by the Director under section 7(b)(1), including an explanation of the operation of such programs and a list of the sponsors of the programs.

(D) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses.

(E) A list of schools given awards under the program, and the city, town, or county, and State in which the school is located.

(F) An evaluation of the state of arts education in schools, which may include anecdotal evidence of the effect of the Congressional Recognition for Excellence in Arts Education Awards Program on individual school curriculum.

(G) On the basis of the findings described in section 2 and the purposes of the Congressional Recognition for Excellence in Arts Education Awards Program described in section 5(a), a recommendation regarding the national readiness to make individual student awards under subsection (b)(2).

**SEC. 6. COMPOSITION OF BOARD.**

(a) COMPOSITION.—

(1) IN GENERAL.—The Board shall consist of 24 members as follows:

(A) Two Members of the Senate appointed by the Majority Leader of the Senate.

(B) Two Members of the Senate appointed by the Minority Leader of the Senate.

(C) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(D) Two Members of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(E) The Director of the Board, who shall serve as a nonvoting member.

(F) Fifteen members appointed by the Arts Education Partnership steering committee from among representatives of the Arts Education Partnership.

(2) SPECIAL RULE.—In making appointments to the Board, the individuals and entity making the appointments under paragraph (1) shall consider recommendations submitted by any interested party, including any member of the Board.

(3) INTEREST.—

(A) IN GENERAL.—Members of Congress appointed to the Board shall have an interest in 1 of the purposes described in section 5(a).

(B) DIVERSITY.—Representatives of the Arts Education Partnership appointed to the Board shall represent the diversity of that organization's membership, so that artistic and education professionals are represented in the membership of the Board.

(b) TERMS.—Members of the Board shall serve for terms of 6 years, except that of the members first appointed—

(1) one Member of the House of Representatives, 1 Member of the Senate, and 3 members of the Arts Education Partnership shall serve for terms of 2 years;

(2) one Member of the House of Representatives, 1 Member of the Senate, and 4 members of the Arts Education Partnership shall serve for terms of 4 years; and

(3) two Members of the House of Representatives, 2 Members of the Senate, and 8 representatives of the Arts Education Partnership shall serve for terms of 6 years, as determined by lot when all such members have been appointed.

(c) VACANCY.—

(1) IN GENERAL.—Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(2) TERM.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(3) EXTENSION.—Any appointed member of the Board may continue to serve after the expiration of the member's term until the member's successor has taken office.

(4) SPECIAL RULE.—Vacancies in the membership of the Board shall not affect the Board's power to function if there remain sufficient members of the Board to constitute a quorum under subsection (d).

(d) QUORUM.—A majority of the members of the Board shall constitute a quorum.

(e) COMPENSATION.—Members of the Board shall serve without pay but may be compensated for reasonable travel expenses incurred by the members in the performance of their duties as members of the Board.

(f) MEETINGS.—The Board shall meet annually at the call of the Chairperson and at such other times as the Chairperson may determine to be appropriate. The Chairperson shall call a meeting of the Board whenever 1/3 of the members of the Board submit written requests for such a meeting.

(g) OFFICERS.—The Chairperson and the Vice Chairperson of the Board shall be elected from among the Members of Congress serving on the Board, by a majority vote of the members of the Board, for such terms as the Board determines. The Vice Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.

(h) COMMITTEES.—

(1) IN GENERAL.—The Board may appoint such committees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties

under this Act. Members of such committees may include the members of the Board or such other qualified individuals as the Board may select.

(2) SPECIAL RULE.—Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) BYLAWS AND OTHER REQUIREMENTS.—The Board shall establish such bylaws and other requirements as may be appropriate to enable the Board to carry out the Board's duties under this Act.

**SEC. 7. ADMINISTRATION.**

(a) IN GENERAL.—In the administration of the Congressional Recognition for Excellence in Arts Education Awards Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be nominated by the Arts Education Partnership steering committee and appointed by a majority vote of the Board.

(b) DIRECTOR'S RESPONSIBILITIES.—The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Recognition for Excellence in Arts Education Awards Program;

(2) establish such divisions within the Congressional Recognition for Excellence in Arts Education Awards Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Recognition for Excellence in Arts Education Awards Program, subject to such policies as the Board shall prescribe under its bylaws.

(c) APPLICATION.—Each school or student desiring a grant under this Act shall submit an application to the Board at such time, in such manner and accompanied by such information as the Board may require.

**SEC. 8. LIMITATIONS.**

(a) IN GENERAL.—Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Recognition for Excellence in Arts Education Awards Program, except that the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from the Congressional Recognition for Excellence in Arts Education Awards Trust Fund pursuant to section 10(e), and from sources other than the Federal Government.

(b) CONTRACTS.—The Board may enter into such contracts as may be appropriate to carry out the business of the Board, but the Board may not enter into any contract which will obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(c) GIFTS.—The Board may seek and accept, from sources other than the Federal Government, funds and other resources to carry out the Board's activities. The Board may not accept any funds or other resources that are—

(1) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Recognition for Excellence in Arts Education Awards Program; or

(2) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

(d) VOLUNTEERS.—The Board may accept and utilize the services of voluntary, uncompensated personnel.

(e) REAL OR PERSONAL PROPERTY.—The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(f) PROHIBITIONS.—The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

#### SEC. 9. AUDITS.

The financial records of the Board may be audited by the Comptroller General of the United States at such times as the Comptroller General may determine to be appropriate. The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board (or any agent of the Board) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Recognition for Excellence in Arts Education Awards Program.

#### SEC. 10. TERMINATION.

The Board shall terminate 6 years after the date of enactment of this Act. The Board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.

#### SEC. 11. TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Congressional Recognition for Excellence in Arts Education Awards Trust Fund”. The fund shall consist of amounts appropriated to the fund pursuant to section 12 and amounts credited to the fund under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the marketplace.

(2) SPECIAL RULE.—The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that when such average rate is not a multiple of  $\frac{1}{8}$  of 1 percent, the rate of interest of such special obligations shall be the multiple of  $\frac{1}{8}$  of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such spe-

cial obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(e) EXPENDITURES FROM TRUST FUND.—The Secretary of the Treasury is authorized to pay to the Board from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Board to carry out this Act.

#### SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Congressional Recognition for Excellence in Arts Education Awards Trust Fund established under section 11, \$1,000,000 during the period beginning with fiscal year 2001 and ending with fiscal year 2005.

By Mr. DASCHLE (for Mr. LAUTENBERG (for himself, Mr. TORRICELLI, and Mr. SANTORUM):

S. 1296. A bill to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

#### NATIONAL DELAWARE WILD AND SCENIC RIVERS ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation to designate the Lower Delaware River as a National Wild and Scenic River. I am pleased to be joined by Senators TORRICELLI and SANTORUM in sponsoring this legislation.

Under the Wild and Scenic Rivers Act, designation as a Wild and Scenic River is reserved for free flowing rivers with at least one “outstandingly remarkable” resource value such as exceptional scenery, recreational opportunities, fisheries and wildlife, historic site, or cultural resources. Mr. President, the Lower Delaware River has several “outstandingly remarkable” resources of national significance and will make a fine addition to the National Wild and Scenic River System.

Henry Hudson called the Delaware River “one of the best, finest, and pleasantest rivers of the world.” The river begins in the Catskill Mountains and flows south some 300 miles through forested mountains, farmlands, historic towns, suburban and urban communities, industrial complexes and extensive wetlands as it nears the Atlantic Ocean. Although it is one of the largest rivers in the densely populated Northeast, the river retains much of its natural beauty. Woodlands still cover many of the river’s islands, the coast’s steeply sloping hills and cliffs, and much of its floodplain along both sides of the river. Threatened and endangered species, such as bald eagles and peregrine falcons, are found in forests within the river’s watershed and rare fish species like striped bass, shortnose sturgeon and Atlantic sturgeon are found in its waters.

The Lower Delaware is the natural boundary between New Jersey and Pennsylvania and this magnificent part of the river flows through rolling hills, broad valleys, and cliffs carved

and shaped by the river’s floods. On these cliffs are a startling variety of plant life. Cactus are found on the cliff shelves on the south-facing New Jersey side of the river, while shelves on the north-facing Pennsylvania side support arctic-alpine plants. The Nature Conservancy has identified over forty “critical habitats” along the river corridor.

The Lower Delaware is also rich in cultural history. The river corridor contains 29 national historic districts and eight national historic landmarks. On Christmas Day in 1776, George Washington crossed the Lower Delaware with his rag-tag Continental Army at present-day Washington Crossing State Park, New Jersey, on his way to a victory over the British and their Hessian mercenaries near Trenton, New Jersey. Villages founded at 18th and 19th century crossroads are located on both sides of the Lower Delaware. Historic canals such as the Delaware and Raritan Canal and the Delaware Canal still parallel portions of the river, and their surviving towpaths provide hiking and bicycling opportunities.

The Delaware Valley hosts a population of more than 5 million people and the river is within close proximity to major population centers. This proximity provides recreational opportunities for thousands of individuals who use the Lower Delaware for canoeing, kayaking, tubing, birdwatching and fishing.

In 1978, both the Upper Delaware and the Middle Delaware River portions were designated as Wild and Scenic Rivers. Upon the designation of the Lower Delaware, the entire length of the Delaware River from Trenton north, with the exception of a few short sections, would have national designation as a Wild and Scenic River, while the portion of the river from Trenton south is already included in the National Estuary Program. Designation of the Lower Delaware would make the Delaware River the only river system in the eastern United States to have this distinctive status.

Lastly, Mr. President, I just wanted to note that designation of a river as Wild and Scenic does not mean that private lands will suddenly be open to public access. Nor does it mean that existing uses of private property will be restricted. Designated rivers do receive permanent protection from federally licensed or assisted dams and other water resource projects that would have direct and adverse effects on the river’s free-flowing condition or “outstandingly remarkable” resources. A major factor in determining suitability for designation as a Wild and Scenic River is whether or not there is strong support for designation among the localities that border the river. In fact, the Department of the Interior will support designation of a river as Wild and Scenic only if the localities that adjoin the eligible river pass resolutions in support of designation of

their individual segments as Wild and Scenic.

Although designation has received overwhelming support from the great majority of the localities along the river, a handful of localities in Pennsylvania and New Jersey did not pass the necessary resolutions supporting the designation of their river segments as Wild and Scenic. Therefore, although the river segments adjoining these townships are eligible for designation in the future, the legislation that I propose would not designate these river segments as Wild and Scenic River segments under the Wild and Scenic Rivers Act.

Organizations that support designation of this part of the Lower Delaware River as Wild and Scenic include: The Heritage Conservancy, American Rivers, the Delaware River Greenway Partnership, Central Bucks Chamber of Commerce, Lehigh Valley Planning Commission, Tincum Conservancy, Pennsylvania Department of Conservation and Natural Resources, Delaware River Mill Society and the Delaware and Raritan Canal Commission. Many individuals have worked hard to ensure that designation of this portion of the river becomes a reality including William Sharp of the National Park Service, the members of the Lower Delaware River Wild and Scenic Management Committee and the Lower Delaware Advisory Committee including New Jersey residents Richard Albert, Jim Amon, Maya Vanrossum, Thomas Dallesio, Linda Mead, Christian R. Nielson, Tisha Petrushka, Joseph M. Pylka, Chris Robert, William Rockafellow, Jean Shaddow, Robert Stokes, Caroline Armstrong, Ron Tindall, Celeste Tracy, Pamela Vinicombe, Lori Hixon, Kenneth G. Zinis, Dan Longhi, Patricia McIlvaine, and John Brunner.

I invite my colleagues to join me in support of this legislation to recognize the recreational, scenic and cultural resources of national significance that the Lower Delaware River has to offer both to the citizens of New Jersey and the nation.

I ask that a copy of the bill be printed in the RECORD.

The bill follows:

S. 1296

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Delaware Wild and Scenic Rivers Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) Public Law 102-460 directed the Secretary of the Interior, in cooperation and consultation with appropriate Federal, State, regional, and local agencies, to conduct a study of the eligibility and suitability of the lower Delaware River for inclusion in the Wild and Scenic Rivers System;

(2) during the study, the Lower Delaware Wild and Scenic River Study Task Force and the National Park Service prepared a river management plan for the study area entitled "Lower Delaware River Management Plan"

and dated August 1997, which establishes goals and actions that will ensure long-term protection of the river's outstanding values and compatible management of land and water resources associated with the river; and

(3) after completion of the study, 24 municipalities along segments of the Delaware River eligible for designation passed resolutions supporting the Lower Delaware River Management Plan, agreeing to take action to implement the goals of the plan, and endorsing designation of the river.

#### SEC. 3. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by designating the first undesignated paragraph following paragraph 156, pertaining to Elkhorn Creek and enacted by Public Law 104-208, as paragraph 157;

(2) by designating the second undesignated paragraph following paragraph 156, pertaining to the Clarion River, Pennsylvania, and enacted by Public Law 104-314, as paragraph 158;

(3) by designating the third undesignated paragraph following paragraph 156, pertaining to the Lamphrey River, New Hampshire, and enacted by Public Law 104-333, as paragraph 159;

(4) by striking the fourth undesignated paragraph following paragraph 156, pertaining to Elkhorn Creek and enacted by Public Law 104-333; and

(5) by adding at the end the following:

"(160) LOWER DELAWARE RIVER AND ASSOCIATED TRIBUTARIES, NEW JERSEY AND PENNSYLVANIA.—

"(A) SEGMENTS.—The 65.6 miles of river segments in New Jersey and Pennsylvania, consisting of—

"(i) the segment from river mile 193.8 to the northern border of the city of Easton, Pennsylvania (approximately 10.5 miles, 16.9 kilometers), to be administered by the Secretary of the Interior as a recreational river;

"(ii) the segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station (approximately 14.2 miles, 22.8 kilometers), to be administered by the Secretary of the Interior as a recreational river;

"(iii) the segment from the point just south of the Point Pleasant Pumping Station to a point 1,000 feet north of the Route 202 bridge (approximately 6.3 miles, 10.1 kilometers), to be administered by the Secretary of the Interior as a recreational river;

"(iv) the segment from a point 1,750 feet south of the Route 202 bridge to the southern border of the town of New Hope, Pennsylvania (approximately 1.9 miles, 3.0 kilometers), to be administered by the Secretary of the Interior as a recreational river;

"(v) the segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania (approximately 6 miles, 9.7 kilometers), to be administered by the Secretary of the Interior as a recreational river;

"(vi) Tincum Creek (approximately 14.7 miles, 23.7 kilometers), to be administered by the Secretary of the Interior as a scenic river;

"(vii) Tohickon Creek from the Lake Nockamixon Dam to the Delaware River (approximately 10.7 miles, 17.2 kilometers), to be administered by the Secretary of the Interior as a scenic river; and

"(viii) Paunacussing Creek in Solebury Township (approximately 3 miles, 4.8 kilometers), to be administered by the Secretary of the Interior as a recreational river.

"(B) ADMINISTRATION.—The segments shall be administered by the Secretary of the Interior as a component of the National Park System.

"(C) MANAGEMENT OF SEGMENTS.—The segments shall be managed—

"(i) in accordance with the river management plan entitled 'Lower Delaware River Management Plan' and dated August 1997, (referred to in this paragraph as the 'management plan'), prepared by the Lower Delaware Wild and Scenic River Study Task Force and the National Park Service, which establishes goals and actions that will ensure long-term protection of the river's outstanding values and compatible management of land and water resources associated with the river; and

"(ii) in cooperation with appropriate Federal, State, regional, and local agencies, including—

"(I) the New Jersey Department of Environmental Protection;

"(II) the Pennsylvania Department of Conservation and Natural Resources;

"(III) the Delaware and Lehigh Navigation Canal Heritage Corridor Commission;

"(IV) the Delaware and Raritan Canal Commission; and

"(V) the Delaware River Greenway Partnership.

"(D) SATISFACTION OF REQUIREMENTS FOR PLAN.—The management plan shall be considered to satisfy the requirements for a comprehensive management plan under subsection (d).

"(E) FEDERAL ROLE.—

"(i) RESTRICTIONS ON WATER RESOURCE PROJECTS.—In determining under section 7(a) whether a proposed water resources project would have a direct and adverse effect on the value for which a segment is designated as part of the national wild and scenic rivers system, the Secretary shall consider the extent to which the project is consistent with the management plan.

"(ii) COOPERATIVE AGREEMENTS.—Any cooperative agreements entered into under section 10(e) relating to any of the segments shall—

"(I) be consistent with the management plan; and

"(II) may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the segments.

"(iii) SUPPORT FOR IMPLEMENTATION.—The Secretary may provide technical assistance, staff support, and funding to assist in the implementation of the management plan.

"(F) LAND MANAGEMENT.—

"(i) IN GENERAL.—The Secretary may provide planning, financial, and technical assistance to local municipalities to assist in the implementation of actions to protect the natural, economic, and historic resources of the segments.

"(ii) PLAN REQUIREMENTS.—After adoption of recommendations made in section III of the management plan, the zoning ordinances of the municipalities bordering the segments shall be considered to satisfy the standards and requirements under section 6(c).

"(G) ADDITIONAL SEGMENTS.—

"(i) IN GENERAL.—In this subparagraph, the term 'additional segment' means—

"(I) the segment from the Delaware Water Gap to the Toll Bridge connecting Columbia, New Jersey, and Portland, Pennsylvania (approximately 9.2 miles, 14.8 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a recreational river;

"(II) the segment from the Erie Lackawanna railroad bridge to the southern tip of Dildine Island (approximately 3.6 miles, 5.8 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a recreational river;

“(III) the segment from the southern tip of the Mack Island to the northern border of the town of Belvidere, New Jersey (approximately 2 miles, 3.2 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a recreational river;

“(IV) the segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of Gilbert Generating Station (approximately 9.5 miles, 15.2 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a recreational river;

“(V) Paulinskill River in Knowlton Township (approximately 2.4 miles, 3.8 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a recreational river; and

“(VI) Cook’s Creek (approximately 3.5 miles, 5.6 kilometers), which, if made part of the national wild and scenic river system in accordance with this subparagraph, shall be administered by the Secretary as a scenic river.

“(ii) FINDING.—Congress finds that each of the additional segments is suitable for designation as a recreational river or scenic river under this paragraph, if there is adequate local support for the designation.

“(iii) DESIGNATION.—If the Secretary finds that there is adequate local support for designating any of the additional segments as a recreational river or scenic river—

“(I) the Secretary shall publish in the Federal Register a notice of the designation of the segment; and

“(II) the segment shall thereby be designated as a recreational river or scenic river, as the case may be, under this Act.

“(iv) CRITERIA FOR LOCAL SUPPORT.—In determining whether there is adequate local support for the designation of an additional segment, the Secretary shall consider, among other things, the preferences of local governments expressed in resolutions concerning designation of the segment.

“(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph.”●

#### ADDITIONAL COSPONSORS

S. 42

At the request of Mr. HELMS, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 386

At the request of Mr. GORTON, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 391

At the request of Mr. KERREY, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Delaware (Mr. BIDEN), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 391, a bill to provide

for payments to children’s hospitals that operate graduate medical education programs.

S. 472

At the request of Mr. GRASSLEY, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 593

At the request of Mr. COVERDELL, the names of the Senator from Missouri (Mr. BOND) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 593, a bill to amend the Internal Revenue Code of 1986 to increase maximum taxable income for the 15 percent rate bracket, to provide a partial exclusion from gross income for dividends and interest received by individuals, to provide a long-term capital gains deduction for individuals, to increase the traditional IRA contribution limit, and for other purposes.

S. 635

At the request of Mr. MACK, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 635, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 636

At the request of Mr. REED, the names of the Senator from California (Mrs. BOXER) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 636, a bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans.

S. 642

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 642, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 757

At the request of Mr. LUGAR, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 768

At the request of Mr. SESSIONS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 768, a bill to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States.

S. 783

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 783, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 791

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 791, a bill to amend the Small Business Act with respect to the women’s business center program.

S. 820

At the request of Mr. CHAFEE, the names of the Senator from Montana (Mr. BURNS) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 847

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 847, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 914

At the request of Mr. SMITH, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 914, a bill to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes.

S. 980

At the request of Mr. BAUCUS, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 980, a bill to promote

access to health care services in rural areas.

S. 984

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 984, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources.

S. 1016

At the request of Mr. DEWINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1016, a bill to provide collective bargaining for rights for public safety officers employed by States or their political subdivisions.

S. 1091

At the request of Mr. DEWINE, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 1091, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1128

At the request of Mr. KYL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1128, a bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to provide for a carryover basis at death, and to establish a partial capital gains exclusion for inherited assets.

S. 1132

At the request of Mr. BREAU, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1132, a bill to amend the Internal Revenue Code of 1986 to allow the reinvestment of employee stock ownership plan dividends without the loss of any dividend reduction.

S. 1165

At the request of Mr. MACK, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1165, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1207

At the request of Mr. KOHL, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1207, a bill to amend the Internal Revenue Code of 1986 to ensure that income averaging for farmers not increase a farmer's liability for the alternative minimum tax.

S. 1209

At the request of Mr. MURKOWSKI, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1209, a bill to amend the Internal Revenue Code of 1986 to restore pension limits to equitable levels, and for other purposes.

S. 1229

At the request of Mr. BURNS, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1229, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a foreign pesticide for distribution and use within that State.

S. 1255

At the request of Mr. ABRAHAM, the name of the Senator from Louisiana (Mr. BREAU) was added as a cosponsor of S. 1255, a bill to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes.

S. 1262

At the request of Mr. REED, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1262, a bill to amend the Elementary and Secondary Education Act of 1965 to provide up-to-date school library medial resources and well-trained, professionally certified school library media specialists for elementary schools and secondary schools, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1276

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Mr. BREAU) was added as a cosponsor of S. 1276, a bill to prohibit employment discrimination on the basis of sexual orientation.

#### SENATE JOINT RESOLUTION 27

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of Senate Joint Resolution 27, a joint resolution disapproving the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the People's Republic of China.

#### SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Resolution 59, a bill designating both July 2, 1999, and July 2, 2000, as "National Literacy Day."

#### SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr.

WARNER) was added as a cosponsor of Senate Resolution 95, a resolution designating August 16, 1999, as "National Airborne Day."

#### SENATE RESOLUTION 99

At the request of Mr. REID, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of Senate Resolution 99, a resolution designating November 20, 1999, as "National Survivors for Prevention of Suicide Day."

#### AMENDMENTS SUBMITTED DURING THE ADJOURNMENT

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT FY 2000

#### BOND AMENDMENTS NOS. 1038-1039

(Ordered to lie on the table.)

Mr. BOND submitted, under authority of the order of the Senate of June 24, 1999, two amendments intended to be proposed by him to the bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

#### AMENDMENT No. 1038

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . CONTRACTS FOR PROCUREMENT OF FOOD AID COMMODITIES.—None of the funds made available by this Act may be used to award, through the HUBZone program established by section 31 of the Small Business Act (15 U.S.C. 657a), including the price evaluation preference authorized by such program in cases of contract awards through full and open competition, contracts for the procurement or processing of commodities furnished under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or the Food for Progress Act of 1985 (7 U.S.C. 1736o) if more than 50 percent of the dollar value of the contracts are awarded to any single vendor.

#### AMENDMENT No. 1039

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . CONTRACTS FOR PROCUREMENT OF FOOD AID COMMODITIES.—None of the funds made available by this Act may be used to award, through the HUBZone program established by section 31 of the Small Business Act (15 U.S.C. 657a), including the price evaluation preference authorized by such program in cases of contract awards through full and open competition, contracts for the procurement or processing of commodities furnished under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or the Food for Progress Act of 1985 (7 U.S.C. 1736o) if more than 50 percent of the dollar value of the contracts are awarded to any single vendor.

#### BURNS AMENDMENT NO. 1040

(Ordered to lie on the table.)

Mr. BURNS submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . PLANTING OF DRY EDIBLE BEANS AND GARBANZO BEANS ON CONTRACT ACREAGE.—Section 118(b)(1) of the Agricultural Market Transition Act (7 U.S.C. 7218(b)(1)) is amended by striking “and dry peas” and inserting “dry peas, dry edible beans, and garbanzo beans”.

#### LINCOLN AMENDMENT NO. 1041

(Ordered to lie on the table.)

Mrs. LINCOLN submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by her to the bill, S. 1233, supra; as follows:

SEC. . Section 889 of the Federal Agriculture Improvement and Reform Act of 1996 is amended—

(1) in the heading, by inserting “HARRY K. DUPREE” before “STUTTGART”; (2) in subsection (b)(1)—

(A) in the heading, by inserting “HARRY K. DUPREE” before “STUTTGART”; and

(B) in subparagraphs (A) and (B), by inserting “Harry K. Dupree” before “Stuttgart National Aquaculture Research Center” each place it appears.

#### SMITH AMENDMENT NO. 1042

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . CRANBERRY MARKETING ORDERS.—(a) PAID ADVERTISING FOR CRANBERRIES AND CRANBERRY PRODUCTS.—Section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first proviso—

(1) by striking “or Florida grown strawberries” and inserting “, Florida grown strawberries, or cranberries”; and

(2) by striking “and Florida Indian River grapefruit” and inserting “Florida Indian River grapefruit, and cranberries”.

(b) COLLECTION OF CRANBERRY INVENTORY DATA.—Section 8d of the Agricultural Adjustment Act (7 U.S.C. 608d), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

“(3) COLLECTION OF CRANBERRY INVENTORY DATA.—

“(A) IN GENERAL.—If an order is in effect with respect to cranberries, the Secretary of Agriculture may require persons engaged in the handling or importation of cranberries or cranberry products (including producer-handlers, second handlers, processors, brokers, and importers) to provide such information as the Secretary considers necessary to effectuate the declared policy of this title, including information on acquisitions, inventories, and dispositions of cranberries and cranberry products.

“(B) DELEGATION TO COMMITTEE.—The Secretary may delegate the authority to carry out subparagraph (A) to any committee that is responsible for administering an order covering cranberries.

“(C) CONFIDENTIALITY.—Paragraph (2) shall apply to information provided under this paragraph.

“(D) VIOLATIONS.—Any person that violates this paragraph shall be subject to the penalties provided under section 8c(14).”.

#### ROBERTS AMENDMENTS NOS. 1043-1045

(Ordered to lie on the table.)

Mr. ROBERTS submitted, under authority of the order of the Senate of June 24, 1999, three amendments intended to be proposed by him to the bill, S. 1233, supra; as follows:

##### AMENDMENT No. 1043

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . PROHIBITED ACTIVITIES ON CRP ACREAGE.—None of the funds made available by this or any other Act shall be used to implement Notice CRP-327, issued by the Farm Service Agency on October 26, 1998.

##### AMENDMENT No. 1044

On page 76, between lines 6 and 7, insert the following:

SEC. . CONTINUOUS SIGNUP AND OTHER PROCEDURES FOR CRP.—None of the funds made available by this Act shall be used to implement Notice CRP-338, issued by the Farm Service Agency on March 10, 1999.

##### AMENDMENT No. 1045

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . CRP CROSS-COMPLIANCE WITH CERTAIN CONSERVATION REQUIREMENTS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) in paragraph (9), by adding “and” after the semicolon at the end;

(2) in paragraph (10), by striking “; and” and inserting a period;”;

(3) by striking paragraph (11).

#### REID AMENDMENT NO. 1046

(Ordered to lie on the table.)

Mr. REID submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

On page 13, line 16, strike the figure “\$119,300,000” and insert in lieu thereof the figure “\$118,800,000” and on page 13, line 13, strike the figure “\$54,276,000” and insert in lieu thereof the figure “\$54,776,000”.

#### LEVIN AMENDMENT NO. 1047

(Ordered to lie on the table.)

Mr. LEVIN submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

On page 13, line 13, strike “\$54,276,000” and insert “\$55,166,000”.

On page 13, line 14, before the semicolon, insert the following: “, of which not less than \$445,000 shall be used to make a special grant to the State of Michigan to carry out sustainable agriculture research, and of which not less than \$445,000 shall be used to make a special grant to the State of Michigan to carry out a research program on improved fruit practices”.

On page 13, line 16, strike “\$119,300,000” and insert “\$118,410,000”.

#### HARKIN AMENDMENT NO. 1048

(Ordered to lie on the table.)

Mr. HARKIN submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . EMERGENCY AND MARKET LOSS ASSISTANCE.—(a) ADDITIONAL CROP LOSS ASSISTANCE.—

(1) IN GENERAL.—In addition to amounts that have been made available to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277) under other law, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall use not more than \$430,000,000 of funds of the Commodity Credit Corporation to provide crop loss assistance in accordance with that section in a manner that, to the maximum extent practicable—

(A) fully compensates agricultural producers for crop losses in accordance with that section (including regulations promulgated to carry out that section); and

(B) provides equitable treatment under that section for agricultural producers described in subsections (b) and (c) of that section.

(2) CITRUS CROP LOSSES.—Notwithstanding any other provision of law (including regulations), for the purposes of section 1102 of that Act, a loss of a citrus crop caused by a disaster in 1998 shall be considered to be a loss of the 1998 crop of the citrus crop, without regard to the time of harvest.

(b) MARKET LOSS ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraphs (4) and (5), the Secretary shall use not more than \$4,145,000,000 of funds of the Commodity Credit Corporation to provide assistance to owners and producers on a farm that are eligible for payments for fiscal year 1999 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) to partially compensate the owners and producers for the loss of markets for the 1999 crop of a commodity.

(2) AMOUNT.—Except as provided in paragraphs (4) and (5), the amount of assistance made available to owners and producers on a farm under this subsection shall be proportionate to the amount of the contract payment received by the owners and producers for fiscal year 1999 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(3) TIME FOR PAYMENT.—The assistance made available under this subsection for an eligible owner or producer shall be provided as soon as practicable after the date of enactment of this Act.

(4) DAIRY PRODUCERS.—

(A) IN GENERAL.—Of the total amount made available under paragraph (1), \$200,000,000 shall be available to provide assistance to dairy producers in a manner determined by the Secretary.

(B) FEDERAL MILK MARKETING ORDERS.—Payments made under this subsection shall not affect any decision with respect to rule-making activities under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253).

(5) PEANUTS.—

(A) IN GENERAL.—Of the total amount made available under paragraph (1), the Secretary shall use not to exceed \$45,000,000 to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for the loss of markets for the 1998 crop of peanuts.

(B) AMOUNT.—The amount of a payment made to producers on a farm of quota peanuts or additional peanuts under subparagraph (A) shall be equal to the product obtained by multiplying—

(i) the quantity of quota peanuts or additional peanuts produced or considered produced by the producers under section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271); by

(ii) an amount equal to 5 percent of the loan rate established for quota peanuts or additional peanuts, respectively, under section 155 of that Act.

(C) FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32).—For an additional amount for the fund maintained for funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$355,000,000.

(D) EMERGENCY LIVESTOCK FEED ASSISTANCE.—For an additional amount to provide emergency livestock feed assistance in accordance with section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$180,000,000.

(E) OILSEED PURCHASES AND DONATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall use not less than \$1,000,000,000 of funds of the Commodity Credit Corporation for the purchase and distribution of oilseeds, vegetable oil, and oilseed meal under applicable food aid authorities, including—

(A) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b));

(B) the Food for Progress Act of 1985 (7 U.S.C. 1736o); and

(C) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

(2) LEAST DEVELOPED COUNTRIES.—Not less than 40 percent of the commodities distributed pursuant to this subsection shall be made available to least developed countries, as determined by the Secretary.

(3) LOCAL CURRENCIES.—To the maximum extent practicable, local currencies generated from the sale of commodities under this subsection shall be used for development purposes that foster United States agricultural exports.

(F) UPLAND COTTON PRICE COMPETITIVENESS.—

(1) IN GENERAL.—Section 136(a) of the Agricultural Market Transition Act (7 U.S.C. 7236(a)) is amended—

(A) in paragraph (1), by inserting “(in the case of each of the 1999-2000 and 2000-2001 marketing years for upland cotton, at the option of the recipient)” after “or cash payments”;

(B) by inserting “(or, in the case of each of the 1999-2000 and 2000-2001 marketing years for upland cotton, 1.25 cents per pound)” after “3 cents per pound” each place it appears;

(C) in paragraph (3), by striking subparagraph (A) and inserting the following:

“(A) REDEMPTION, MARKETING, OR EXCHANGE.—

“(i) IN GENERAL.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for—

“(I) except as provided in subclause (II), agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates; or

“(II) in the case of each of the 1999-2000 and 2000-2001 marketing years for upland cotton, agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton.

“(ii) PRICE RESTRICTIONS.—Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.”; and

(D) in paragraph (4), by inserting before the period at the end the following: “, except that this paragraph shall not apply to each of fiscal years 2000 and 2001”.

(2) ENSURING THE AVAILABILITY OF UPLAND COTTON.—Section 136(b) of the Agricultural Market Transition Act (7 U.S.C. 7236(b)) is amended—

(A) in paragraph (1), by striking “The” and inserting “Except as provided in paragraph (7), the”; and

(B) by adding at the end the following:

“(7) 1999-2000 AND 2000-2001 MARKETING YEARS.—

“(A) IN GENERAL.—In the case of each of the 1999-2000 and 2000-2001 marketing years for upland cotton, the President shall carry out an import quota program as provided in this paragraph.

“(B) PROGRAM REQUIREMENTS.—Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{8}$ -inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

“(C) TIGHT DOMESTIC SUPPLY.—During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{8}$ -inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a).

“(D) SEASON-ENDING UNITED STATES STOCKS-TO-USE RATIO.—For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

“(E) LIMITATION.—The quantity of cotton entered into the United States during any marketing year described in subparagraph (A) under the special import quota established under this paragraph may not exceed the equivalent of 5 weeks’ consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.”.

(3) REMOVAL OF SUSPENSION OF MARKETING CERTIFICATE AUTHORITY.—Section 171(b)(1)(G) of the Agricultural Market Transition Act (7 U.S.C. 7301(b)(1)(G)) is amended by inserting before the period at the end the following: “,

except that this subparagraph shall not apply to each of the 1999-2000 and 2000-2001 marketing years for upland cotton”.

(4) REDEMPTION OF MARKETING CERTIFICATES.—Section 115 of the Agricultural Act of 1949 (7 U.S.C. 1445k) is amended—

(A) in subsection (a)—

(i) by striking “rice (other than negotiable marketing certificates for upland cotton or rice)” and inserting “rice, including the issuance of negotiable marketing certificates for upland cotton or rice”;

(ii) in paragraph (1), by striking “and” at the end;

(iii) in paragraph (2), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(3) redeem negotiable marketing certificates for cash under such terms and conditions as are established by the Secretary.”; and

(B) in the second sentence of subsection (c), by striking “export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978” and inserting “market access program or the export enhancement program established under sections 203 and 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623, 5651)”.

(g) FARM SERVICE AGENCY.—For an additional amount for the Farm Service Agency, to be used at the discretion of the Secretary, for salaries and expenses of the Farm Service Agency or for direct or guaranteed farm ownership, operating, or emergency loans under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$50,000,000.

(h) STATE MEDIATION GRANTS.—For an additional amount for grants pursuant to section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5102(b)), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$2,000,000.

(i) RURAL ECONOMIC ASSISTANCE.—For an additional amount for rural economic assistance, there is appropriated, out of any money in the Treasury not otherwise appropriated, \$100,000,000: *Provided*, That such funds shall be administered in accordance with the provisions of section 793 of P.L. 104-127; *Provided further*, That the highest priority in the use of such funds shall be for the most economically disadvantaged rural communities.

(j) EMERGENCY REQUIREMENT.—The entire amount necessary to carry out this section and the amendments made by this section shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

(k) AVAILABILITY.—The amount necessary to carry out this section and the amendments made by this section shall be available in fiscal years 1999 and 2000.

#### COVERDELL AMENDMENT NO. 1049

(Ordered to lie on the table.)

Mr. COVERDELL submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, *supra*; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7. LAKE OCONEE LAND EXCHANGE.—(a) DEFINITIONS.—In this section:

(1) DESCRIPTION OF THE BOUNDARY.—The term “description of the boundary” means the documents entitled “Description of the Boundary” dated September 6, 1996, prepared by the Forest Service and on file with the Secretary.

(2) EXCHANGE AGREEMENT.—The term “exchange agreement” means the agreement between Georgia Power Company and the Forest Service dated December 26, 1996, as amended on August 17, 1998, on file with the Secretary.

(3) GEORGIA POWER COMPANY.—The term “Georgia Power Company” means Georgia Power Company, a division of the Southern Company, a Georgia corporation, or its successors or assigns.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Simultaneously with conveyance by Georgia Power Company to the Secretary of all right, title, and interest in and to the land described in paragraph (2), the Secretary shall—

(A) convey to Georgia Power Company all right, title, and interest in and to the land described in paragraph (3), except as provided in the exchange agreement; and

(B) make a value equalization payment of \$23,250 to Georgia Power Company.

(2) LAND TO BE CONVEYED TO THE SECRETARY.—The land described in this paragraph is the land within or near the Chatahoochee National Forest and Oconee National Forest in the State of Georgia, comprising approximately 1,175.46 acres, described in the exchange agreement and the description of the boundary.

(3) LAND TO BE CONVEYED TO GEORGIA POWER COMPANY.—The land described in this paragraph is the land in the State of Georgia, comprising approximately 1,275.80 acres, described in the exchange agreement and the description of the boundary.

(c) PARTIAL REVOCATION OF WITHDRAWALS.—

(1) IN GENERAL.—The orders issued by the Federal Energy Regulatory Commission under section 24 of the Federal Power Act (16 U.S.C. 818), authorizing Power Project Numbers 2413 and 2354, issued August 6, 1969, and October 1, 1996, respectively, are revoked insofar as the orders affect the land described in subsection (b)(3).

(2) NO ANNUAL CHARGE.—No interest conveyed to Georgia Power Company or easement right retained by Georgia Power Company under this section shall be subject to an annual charge for the purpose of compensating the United States for the use of its land for power purposes.

#### LEAHY AMENDMENT NO. 1050

(Ordered to lie on the table.)

Mr. LEAHY submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

Insert under General Provisions, the following:

#### “OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

“The Secretary may transfer funds from salary and expense accounts within the Department as provided in this Act for activities pursuant to section 2501 of title XXV of the Food, Agriculture, Conservation, and Trade Act of 1990.”

#### KERREY AMENDMENTS NOS. 1051-1054

(Ordered to lie on the table.)

Mr. KERREY submitted, under authority of the order of the Senate of June 24, 1999, four amendments intended to be proposed by him to the bill S. 1233, supra; as follows:

#### AMENDMENT NO. 1051

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . REGULATORY AUTHORITY OVER PACKERS AND STOCKYARDS.—(a) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General shall carry out and exercise regulatory authority over the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.).

(b) FUNDING.—The Secretary of Agriculture shall transfer to the Attorney General unobligated amounts that have been made available to carry out the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.).

(c) CONFORMING AMENDMENTS.—

(1) Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended—

(A) by striking paragraph (2); and  
(B) by redesignating paragraphs (3) through (11) as paragraphs (2) through (10), respectively.

(2) Section 203(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 193(b)), is amended in the last sentence by striking “pay such penalty” and all that follows through “may recover” and inserting “pay the penalty, the Attorney General may recover”.

(3) Section 204(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(a)), is amended by striking “Secretary’s order” and inserting “order of the Attorney General”.

(4) Section 312(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 213(b)), is amended in the last sentence by striking “pay such penalty” and all that follows through “may recover” and inserting “pay the penalty, the Attorney General may recover”.

(5) Section 315 of the Packers and Stockyards Act, 1921 (7 U.S.C. 216), is amended in the first sentence by striking “the Secretary, or any party injured thereby,” and inserting “any party injured thereby.”

(6) Section 404 of the Packers and Stockyards Act, 1921 (7 U.S.C. 224), is amended by striking “The Secretary may report any violation of this Act to the Attorney General of the United States, who” and inserting “In the case of any violation of this Act, the Attorney General”.

(7) Sections 406 and 407(c) of the Packers and Stockyards Act, 1921 (7 U.S.C. 227, 228(c)), are amended by striking “Secretary of Agriculture” each place it appears and inserting “Attorney General”.

(8) Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended—

(A) in the first sentence, by striking “Secretary’s order, the Secretary may notify the Attorney General, who” and inserting “Attorney General’s order, the Attorney General”; and

(B) in the second sentence, by striking “Secretary of Agriculture may, with the approval of the Attorney General,” and inserting “Attorney General may”.

(9) Section 411(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228b-2(b)), is amended in the last sentence by striking “pay such penalty” and all that follows through “may recover” and inserting “pay the penalty, the Attorney General may recover”.

(10) Section 412(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228b-3(a)), is amended by striking “Secretary’s order” and inserting “order of the Attorney General”.

(11) Section 416 of the Packers and Stockyards Act, 1921 (7 U.S.C. 229a), is amended by striking “Secretary of Agriculture” each place it appears and inserting “Attorney General”.

(12) The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended by striking “Secretary” each place it appears and inserting “Attorney General”.

(13) Section 285(c)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7005(c)(1)) is amended by striking “grain inspection, and packers and stockyards” and inserting “and grain inspection”.

#### AMENDMENT NO. 1052

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . SUPPLIER CREDITS.—Section 202(a)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(a)(2)) is amended by striking “180 days” and inserting “1 year”.

#### AMENDMENT NO. 1053

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . PAYMENT OF TRANSPORTATION COSTS.—Section 406(b)(6) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(6)) is amended by striking “in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities)”.

On page 36 of S. 1233, line 3 after the word “systems:” insert the following:

“Provided further, That of the total amount appropriated, not to exceed \$1,500,000 shall be available to the Grassroots project.”

#### DASCHLE AMENDMENTS NOS. 1055-1059

(Ordered to lie on the table.)

Mr. DASCHLE submitted, under authority of the order of the Senate of June 24, 1999, five amendments intended to be proposed by him to the bill, S. 1233, supra; as follows:

#### AMENDMENT NO. 1055

On page 6, line 23 strike “3,000,000” and insert in lieu thereof, “\$4,499,000”.

On page 17, line 9 strike “\$35,541,000” and insert in lieu thereof, “\$39,499,000”.

On page 17, line 13 strike “payments” and insert in lieu thereof the following: “payments for the crops at risk from FQPA implementation program, \$1,000,000; payments for the FQPA risk mitigation program systems, \$2,958,000; payments”.

On page 22, line 26 strike “\$24,287,000” and insert in lieu thereof, “\$25,499,000”.

On page 25, line 16 strike “\$2,000,000” and insert in lieu thereof, “\$2,499,000”.

On page 67, line 6 strike “\$50,000,000” and insert in lieu thereof, “\$30,000,000”.

#### AMENDMENT NO. 1056

On page 25, line 16 strike “\$2,000,000” and insert in lieu thereof, “\$2,499,000”.

On page 67, line 6 strike “\$50,000,000” and insert in lieu thereof, “\$49,999,400”.

#### AMENDMENT NO. 1057

On page 22, line 26 strike “\$24,287,000” and insert in lieu thereof, “\$25,499,000”.

On page 67, line 6 strike “\$50,000,000 and insert in lieu thereof, “\$40,000,000”.

#### AMENDMENT NO. 1058

On page 6, line 23 strike “3,000,000” and insert in lieu thereof, “\$4,499,000”.

On page 67, line 6 strike “\$50,000,000” and insert in lieu thereof, “\$40,000,000”.

#### AMENDMENT NO. 1059

On page 17, line 13 strike “payments” and insert in lieu thereof the following: “payments for the crops at risk from FQPA implementation program, \$1,000,000; payments for the FQPA risk mitigation program systems, \$2,958,000; payments”.

On page 67, line 6 strike "\$50,000,000" and insert in lieu thereof, "\$47,041,999".

THOMAS (AND OTHERS)  
AMENDMENT NO. 1060

(Ordered to lie on the table.)

Mr. THOMAS (for himself, Mr. BURNS, Mr. ALLARD, Mr. ROBERTS, Mr. ENZI, Mr. CRAIG, Mr. HAGEL, and Mr. DASCHLE) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill S. 1233, supra; as follows:

On page 14, line 22, before the period at the end, insert the following: ", of which not less than \$250,000 shall be provided to carry out programs and activities of the Livestock Marketing Information Center in Lakewood, Colorado".

On page 76, between lines 6 and 7, insert the following:

SEC. 7. PILOT PROGRAMS.—(a) DOMESTIC MARKET REPORTING PILOT PROGRAM.—Section 416 of the Packers and Stockyards Act, 1921 (7 U.S.C. 229a) is repealed.

(b) EXPORT MARKET REPORTING PILOT INVESTIGATION.—Section 1127 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 1990 (7 U.S.C. 1421 note; Public Law 105-277) is repealed.

(c) MARKET ANALYSIS PROGRAMS.—The Secretary of Agriculture, acting through the Cooperative States Research Education and Extension Service, shall use any unobligated funds for fiscal year 1999 that are made available as the result of the amendments made by this section to carry out market analysis programs at the Livestock Marketing Information Center in Lakewood, Colorado.

JEFFORDS AMENDMENT NO. 1061

(Ordered to lie on the table.)

Mr. JEFFORDS submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7. DAIRY COMPACTS; FEDERAL MILK MARKETING ORDERS.—(a) NORTHEAST INTERSTATE DAIRY COMPACT.—Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking "Massachusetts, New Hampshire," and inserting "Maryland, Massachusetts, New Hampshire, New Jersey, New York,";

(2) by striking paragraphs (1) and (7);

(3) in paragraph (3), by striking "concurrent" and all that follows through "section 143" and inserting "on December 31, 2002";

(4) in paragraph (4), by striking "Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia" and inserting "Delaware, Ohio, and Pennsylvania";

(5) in paragraph (5), by striking "the projected rate of increase" and all that follows through "Secretary" and inserting "the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code";

(6) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively; and

(7) by adding at the end the following:

"(6) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in

which a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Secretary for the cost of any milk and milk products provided under the special milk program authorized under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code."

(b) SOUTHERN DAIRY COMPACT.—

(1) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia as specified in section 201(b) of Senate Joint Resolution 22 of the 106th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(A) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (referred to in this subsection as a "Federal milk marketing order") unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(B) DURATION.—Consent for the Southern Dairy Compact shall terminate on December 31, 2002.

(C) ADDITIONAL STATES.—The States of Florida, Georgia, Missouri, Oklahoma, Kansas, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(D) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary of Agriculture (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(E) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Secretary of Agriculture for the cost of any milk and milk products provided under the special milk program authorized under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(F) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this subsection is reserved.

(c) FEDERAL MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253) is amended by adding at the end the following:

"(e) FLUID OR CLASS I MILK.—In implementing the final decision for the consolidation and reform of Federal milk marketing orders under this section (including the decision of the Secretary published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16026)) (referred to in this section as the 'final decision'), effective beginning on the earlier of the date of enactment of this subsection or October 1, 1999, the Secretary shall implement, as the method for pricing fluid or Class I milk under the orders, the Class I price structure identified as Option 1A in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4975-5020) (as amended on February 25, 1998 (63 Fed. Reg. 9686)).

"(f) CLASS II, III, AND III-A MILK.—

"(1) IN GENERAL.—In implementing the final decision, during the period beginning on the date of enactment of this subsection and ending on the date on which the actions required by paragraph (2) are complete, the Secretary shall implement, as the method for pricing milk classified as Class II, III, or III-A milk under the orders, the pricing published in the Federal Register for—

"(A) Class III-A milk on October 29, 1993 (58 Fed. Reg. 58112);

"(B) Class II milk on December 14, 1994 (59 Fed. Reg. 64524);

"(C) Class II, III, and III-A milk on February 7, 1995 (60 Fed. Reg. 7290); and

"(D) Class III milk on June 4, 1997 (62 Fed. Reg. 30564);

rather than the prices included as part of the final decision.

"(2) FORMAL RULEMAKING.—

"(A) IN GENERAL.—Not later than 60 days after a referendum is conducted to approve a consolidated order under this section, the Secretary shall conduct rulemaking, on the record after opportunity for an agency hearing, on proposed formulae for determining prices for Classes II, III, and III-A milk in accordance with the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

"(B) RECOMMENDED AND FINAL DECISIONS.—The Secretary shall issue—

"(i) a recommended decision on a formula described in subparagraph (A) not later than 120 days after the close of the hearing; and

"(ii) a final decision on the formula not later than 120 days after the issuance of the recommended decision.

"(3) LIMITATION.—No pricing under this section shall result in any significant reduction of the percentage that the minimum price of milk for a given class represents (on the date of enactment of this subsection) of the value of the finished product used in establishing the minimum prices.

"(4) COMPULSORY REPORTING OF PRICES AND COSTS.—If the Secretary bases any price under this subsection on a survey of prices at which commodities are sold or the costs of plants used to purchase and produce the commodities, the Secretary may, by rule, require all plants purchasing milk, regardless of whether the milk is subject to Federal milk marketing orders, to report such data as are necessary to conduct an accurate survey of those prices and costs.

"(g) IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall—

"(A) revise the final decision to reflect and comply with the requirements of subsections (e) and (f); and

"(B) issue proposed consolidated orders under this section.

“(2) REFERENDA.—As soon as practicable after revising the final decision and issuing a proposed consolidated order, the Secretary shall conduct a referendum among affected producers to determine whether the producers approve each consolidated order.”

(2) CONFORMING AMENDMENTS.—Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681-30), is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(C) in subsection (a) (as so redesignated)—

(i) by striking “subsection (a)(2) of such section” and inserting “section 143(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)(2))”; and

(ii) by striking “final rule referred to in subsection (a)” and by inserting “final rule to implement the amendments to Federal milk marketing orders required by section 143(a)(1) of that Act”.

(d) EFFECTIVE DATE.—The section and the amendments made by this section take effect on the earlier of—

- (1) the date of enactment of this section; or
- (2) October 1, 1999.

#### JOHNSON (AND OTHERS) AMENDMENT NO. 1062

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. ENZI, Mr. THOMAS, and Mr. CONRAD) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7. LABELING OF IMPORTED MEAT AND MEAT FOOD PRODUCTS.—(a) DEFINITIONS.—Section 1 of the Federal Meat Inspection Act (21 U.S.C. 601) is amended by adding at the end the following:

“(w) BEEF.—The term ‘beef’ means meat produced from cattle (including veal).

“(x) IMPORTED BEEF.—The term ‘imported beef’ means beef that is not United States beef, whether or not the beef is graded with a quality grade issued by the Secretary.

“(y) IMPORTED LAMB.—The term ‘imported lamb’ means lamb that is not United States lamb, whether or not the lamb is graded with a quality grade issued by the Secretary.

“(z) IMPORTED PORK.—The term ‘imported pork’ means pork that is not United States pork.

“(aa) LAMB.—The term ‘lamb’ means meat, other than mutton, produced from sheep.

“(bb) PORK.—The term ‘pork’ means meat produced from hogs.

“(cc) UNITED STATES BEEF.—

“(1) IN GENERAL.—The term ‘United States beef’ means beef produced from cattle slaughtered in the United States.

“(2) EXCLUSION.—The term ‘United States beef’ does not include beef produced from cattle imported into the United States in sealed trucks for slaughter.

“(dd) UNITED STATES LAMB.—

“(1) IN GENERAL.—The term ‘United States lamb’ means lamb produced from sheep slaughtered in the United States.

“(2) EXCLUSION.—The term ‘United States lamb’ does not include lamb produced from sheep imported into the United States in sealed trucks for slaughter.

“(ee) UNITED STATES PORK.—

“(1) IN GENERAL.—The term ‘United States pork’ means pork produced from hogs slaughtered in the United States.

“(2) EXCLUSION.—The term ‘United States pork’ does not include pork produced from hogs imported into the United States in sealed trucks for slaughter.”

(b) MISBRANDING.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) in paragraph (11), by striking “or” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(13)(A) if it is imported beef, imported lamb, or imported pork offered for retail sale as muscle cuts of beef, lamb, or pork and does not bear a label that identifies its country of origin;

“(B) if it is United States beef, United States lamb, or United States pork offered for retail sale as muscle cuts of beef, lamb, or pork, and does not bear a label that identifies its country of origin; or

“(C) if it is United States or imported ground beef, ground lamb, or ground pork and is not accompanied by labeling that identifies it as United States beef, United States lamb, United States pork, imported beef, imported lamb, imported pork, or other designation that identifies the content of United States beef, imported beef, United States lamb, imported lamb, United States pork, and imported pork contained in the product, as determined by the Secretary.”

(c) LABELING.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

“(g) MANDATORY LABELING.—The Secretary shall provide by regulation that the following offered for retail sale bear a label that identifies its country of origin:

“(1) Muscle cuts of United States beef, United States lamb, United States pork, imported beef, imported lamb, and imported pork.

“(2) Ground beef, ground lamb, and ground pork.

“(h) AUDIT VERIFICATION SYSTEM FOR UNITED STATES AND IMPORTED MUSCLE CUTS OF BEEF, LAMB, AND PORK AND GROUND BEEF, LAMB, AND PORK.—The Secretary may require by regulation that any person that prepares, stores, handles, or distributes muscle cuts of United States beef, imported beef, United States lamb, imported lamb, United States pork, imported pork, ground beef, ground lamb, or ground pork for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under subsection (g).”

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to carry out the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section take effect 60 days after the date on which final regulations are promulgated under subsection (e).

#### GRAHAM (AND MACK) AMENDMENT NO. 1063

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. MACK) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill, S. 1233, supra; as follows:

On page 18, line 12, strike “\$437,445,000” and insert “\$439,445,000”;

On page 18, line 19, after the colon, insert the following: “Provided further, That, of the amounts made available under this heading, not less than \$24,970,000 shall be used for fruit fly exclusion and detection (including at least \$6,000,000 for fruit fly exclusion and detection in the state of Florida);

On page 20, line 16, strike “\$7,200,000” and insert “\$5,200,000”.

#### HUTCHISON AMENDMENT NO. 1064

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by her to the bill, S. 1233, supra; as follows:

At the appropriate place in the bill, add the following new section:

#### TITLE I—SHORT TITLE

Agriculture Trade Fairness and Enforcement Act of 1999.

#### TITLE II—COMPREHENSIVE STRATEGY FOR THE ELIMINATION OF MARKET-DISTORTING PRACTICES AFFECTING THE AGRICULTURE INDUSTRY

##### SECTION 1. DEFINITIONS.

In this Act:

(1) TRADE REPRESENTATIVE.—The term “Trade Representative” means the United States Trade Representative.

(2) COMPREHENSIVE STRATEGY.—The term “comprehensive strategy” means the comprehensive strategy for the elimination of market-distorting practices described in section 101(c) and includes the findings that led to the development of the strategy.

##### SEC. 2. DIRECTIVE TO THE TRADE REPRESENTATIVE.

(a) INITIATION OF INVESTIGATION.—Not later than 45 days after the date of enactment of this Act, the Trade Representative shall initiate an investigation under section 302(b) of the Trade Act of 1974 of market-distorting practices of foreign governments that have insulated foreign agriculture producers from competitive pressures and have contributed to the investment in, and development of, agriculture on terms inconsistent with competitive market conditions. The provisions of sections 302(b)(1)(B), 303, and 304 of the Trade Act of 1974 shall not apply to the investigation conducted pursuant to this subsection.

(b) IDENTIFICATION OF PRIORITY FOREIGN MARKET-DISTORTING PRACTICES.—

(1) IN GENERAL.—In the course of the investigation described in subsection (a), the Trade Representative shall identify the priority foreign market-distorting practices that have the greatest impact on the United States agriculture industry as targets for further action under subsection (d).

(2) ANNUAL IDENTIFICATION.—The Trade Representative shall annually update and publish in the Federal Register a list of the priority foreign market-distorting practices that have the greatest impact on the United States agriculture industry as targets for further action under title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) or any other provision of law.

(3) INITIATION OF INVESTIGATION.—

(A) IN GENERAL.—By no later than the date that is 30 days after the date on which a practice is identified under paragraph (2), initiate an investigation under section 302(b) of the Trade Act of 1974 with respect to such practice if—

(i) at that time the practice is not the subject of any other investigation or action under this title or under title III of the Trade Act of 1974; and

(ii) the foreign government, with respect to which a priority foreign market-distorting practice has been identified, fails to take steps to eliminate the practice.

(B) EXCEPTION.—The Trade Representative shall not be required to initiate an investigation under subparagraph (A) with respect to any practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to the economic interest of the United States and so certifies to Congress.

## (c) COMPREHENSIVE STRATEGY.—

(1) IN GENERAL.—The Trade Representative shall, as a result of the investigation required under subsection (a)—

(A) develop a comprehensive strategy for the elimination of the market-distorting practices identified under subsection (b)(1); and

(B) not later than 6 months after the date of enactment of this Act, submit to the President the comprehensive strategy including the findings that led to the development of the strategy.

(2) FACTORS TO BE CONSIDERED.—In developing the comprehensive strategy under this subsection, the Trade Representative shall consider all relevant factors, including—

(A) the market-distorting practices described in subsection (a);

(B) the impact of foreign market-distorting practices on the United States economy generally and on the United States agriculture industry and its workers specifically;

(C) the extent to which a foreign country's market-distorting practices are prohibited under the trade agreements to which that foreign country is a party;

(D) the extent to which a foreign country's market-distorting practices are prohibited under existing commitments made by that foreign country to an international financial institution (as defined in section 401(b));

(E) the extent to which a foreign government's failure to enforce its antimonopoly law leads to market-distorting practices; and

(F) the views of the public, the United States agriculture industry and its workers.

(3) NOTICE; PUBLIC HEARING.—The Trade Representative shall hold at least one public hearing on the comprehensive strategy to consider all relevant factors. Not later than 45 days after the date of enactment of this Act, the Trade Representative shall publish in the Federal Register notice of the investigation and the public hearing to be conducted under this section.

(d) RECOMMENDATIONS FOR ACTION.—The Trade Representative shall include within the strategy described in subsection (c), recommendations for action to address the foreign market-distorting practices identified in subsection (b)(1) and a schedule for implementing any action recommended. The recommendations shall include, where appropriate, one or more of the following actions:

(1) Negotiations on a multilateral or bilateral basis to liberalize trade in agriculture products worldwide, including—

(A) the elimination of tariffs, quantitative restraints, licensing requirements, or any other barrier to imports of agriculture products that have the effect of insulating foreign agriculture producers from competition;

(B) the elimination of any export or production subsidies provided by foreign governments to agriculture producers, including the elimination of the practice of providing capital or other goods at below-market rates or other practices that have the effect of distorting the terms of trade or encouraging investment in agriculture manufacturing capacity on terms inconsistent with competitive market conditions;

(C) the elimination of restrictions on capital movement or investment that—

(i) allow foreign governments to insulate agriculture producers from the competitive effects of a functioning global capital market; or

(ii) otherwise permit foreign governments to direct financing to agriculture producers regardless of market conditions;

(D) the privatization of any agriculture producer where government ownership permits the producer to operate on terms inconsistent with competitive market conditions; and

(E) the elimination of administrative guidance by a foreign government to its agri-

culture producers that leads to market-distorting practices or prevents the removal of market-distorting practices.

(2) Initiation of action under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

(3) Use of the authority available to the President under section 122 of the Trade Act of 1974 (19 U.S.C. 2132).

(4) Initiation of a countervailing duty investigation under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.)

(5) Initiation of an antidumping duty investigation under title VII of the Tariff Act of 1930.

(6) Initiation of an action under section 302 of the Trade Act of 1974 (19 U.S.C. 2412).

(7) Consideration by the Attorney General or the Chairman of the Federal Trade Commission of evidence of anticompetitive behavior in foreign markets that has the effect of insulating foreign agriculture producers from competitive pressures of the marketplace and leads to adverse impacts in the United States market, including—

(A) private anticompetitive behavior, such as cartelization;

(B) governmental toleration of anticompetitive behavior; and

(C) governmental action that encourages, requires or prevents the elimination of anticompetitive behavior.

(8) Any other action the Trade Representative deems appropriate.

(e) IDENTIFICATION OF RESOURCES.—The Trade Representative shall, as part of the comprehensive strategy, identify and report to Congress regarding the resources necessary to implement actions recommended in the comprehensive strategy.

### SEC. 3. APPOINTMENT OF COORDINATOR AND ESTABLISHMENT OF INTERAGENCY WORKING GROUP.

(a) APPOINTMENT OF COORDINATOR.—The Trade Representative shall appoint one Deputy Trade Representative to serve as the coordinator of the development and implementation of the comprehensive strategy required by section 101(c).

(b) ESTABLISHMENT OF WORKING GROUP.—Not later than 30 days after the date of enactment of this Act, the President shall establish an interagency working group composed of representatives from the Departments of Commerce, Justice, State, Treasury, and Agriculture, the National Economic Council, the National Security Council, and such other departments and agencies as the President deems appropriate, to assist the Trade Representative in the development and the implementation of the comprehensive strategy required by section 101(c).

### SEC. 4. CONSULTATION AND REPORTING REQUIREMENTS.

(a) CONSULTATION.—The Trade Representative shall consult with the Committees on Finance and Agriculture of the Senate and the Committees on Ways and Means and Agriculture of the House of Representatives at least once every 60 days during the course of the investigation required under section 101(a), and regularly thereafter, regarding the implementation of the comprehensive strategy required by section 101(c).

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act the Trade Representative shall submit the comprehensive strategy report required by section 101(c)(1) to the Committees on Finance and Agriculture of the Senate and the Committees on Ways and Means and Agriculture of the House of Representatives.

KERREY AMENDMENTS NOS. 1065—  
1066

(Ordered to lie on the table.)

Mr. KERREY submitted, under authority of the order of the Senate of

June 24, 1999, two amendments intended to be proposed by him to the bill S. 1233, supra, as follows:

AMENDMENT NO. 1065

On page 76, between lines 6 and 7, insert the following:

### TITLE VIII—CROP INSURANCE

#### SEC. 801. SHORT TITLE.

This title may be cited as the "Crop Insurance for the 21st Century Act".

#### Subtitle A—Crop Insurance Coverage

#### SEC. 811. PAYMENT OF PORTION OF PREMIUM BY CORPORATION.

(a) EXPECTED MARKET PRICE.—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended by striking paragraph (5) and inserting the following:

"(5) EXPECTED MARKET PRICE.—

"(A) IN GENERAL.—For the purposes of this title, the Corporation shall establish or approve the price level (referred to in this title as the 'expected market price') of each agricultural commodity for which insurance is offered.

"(B) AMOUNT.—The expected market price of an agricultural commodity—

"(i) except as otherwise provided in this subparagraph, shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation;

"(ii) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation;

"(iii) in the case of revenue and other similar plans of insurance, shall be the actual market price of the agricultural commodity, as determined by the Corporation; or

"(iv) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation."

(b) PREMIUM AMOUNTS.—Section 508(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) In the case of additional coverage at greater than or equal to 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but less than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

"(D) In the case of additional coverage equal to or greater than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio."

(c) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) MANDATORY PAYMENTS.—For the purpose of encouraging the broadest possible

participation of producers in the crop insurance plans of insurance authorized to be insured or reinsured under subsections (b) and (c), the Corporation shall pay a part of the premium in the amounts determined under this subsection.

“(B) DISCRETIONARY PAYMENTS.—In the case of a plan of insurance approved by the Corporation under subsections (a)(7) and (h), the Corporation may pay a part of the premium in the amounts not to exceed the amounts determined under this subsection.”; and

(2) in paragraph (2), by striking subparagraphs (B) and (C) and inserting the following:

“(B) In the case of additional coverage less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

“(i) 45 percent of the amount of the premium established under subsection (d)(2)(B)(i); and

“(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(ii).

“(C) In the case of coverage at greater than or equal to 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but less than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

“(i) 50 percent of the amount of the premium established under subsection (d)(2)(C)(i); and

“(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(C)(ii).

“(D) In the case of coverage equal to or greater than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

“(i) 55 percent of the amount of the premium established for coverage at 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price under subsection (d)(2)(D)(i); and

“(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(D)(ii).”.

(d) CONFORMING AMENDMENT.—Section 508(h)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(2)) is amended by striking the second sentence.

#### SEC. 812. ASSIGNED YIELDS.

Section 508(g)(2)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)(B)) is amended—

(1) by striking “assigned a yield” and inserting “assigned—

“(i) a yield”;

(2) by striking the period at the end and inserting “; or”;

(3) by adding at the end the following:

“(ii) a yield determined by the Corporation, in the case of—

“(I) a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary;

“(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; and

“(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.”.

#### SEC. 813. MULTIYEAR DISASTER ACTUAL PRODUCTION HISTORY ADJUSTMENT.

Section 508(g) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)) is amended by adding at the end the following:

“(4) TRANSITIONAL ADJUSTMENT FOR DISASTERS.—

“(A) DEFINITION OF A PRODUCER THAT HAS SUFFERED A MULTIYEAR DISASTER.—In this paragraph, the term ‘a producer that has suffered a multiyear disaster’ means a producer that has suffered a natural disaster during at least 3 of the immediately preceding 5 crop years that resulted in a cumulative reduction of at least 25 percent in the actual production history of the crop of an agricultural commodity.

“(B) ELIMINATION OF CERTAIN YEARS OF PRODUCTION HISTORY.—Effective beginning with the 2000 crop year, for the purpose of calculating the actual production history for a crop of an agricultural commodity, a producer that has suffered a multiyear disaster with respect to the crop may exclude 1 year of production history for each 5 years included in the actual production history calculation of the crop for which the producer purchased crop insurance.

“(C) CORPORATION’S SHARE OF CHANGED COSTS.—In the case of an exclusion under subparagraph (B), in addition to any other authority to pay any portion of premium, the Corporation shall pay—

“(i) the portion of the premium that represents the increase in premium associated with the exclusion;

“(ii) all additional indemnities associated with the exclusion; and

“(iii) any amounts that result from the difference in the administrative and operating expenses owed to an approved insurance provider as the result of an adjustment in actual production history under this paragraph.

“(D) INCREASE IN ACTUAL PRODUCTION HISTORY AFTER EXCLUSIONS.—In the case of a producer that has received an exclusion under subparagraph (B), the Corporation shall not limit the increase of the actual production history based on the producer’s actual production of the crop of an agricultural commodity in succeeding crop years until the actual production history for the producer reaches the level for the crop year immediately preceding the first year of the multiyear disaster.

“(E) TERMINATION OF EXCLUSION AUTHORITY.—The authority to apply this paragraph to a producer shall terminate with respect to the first crop year in which crop insurance is available to the producer that adequately insures against natural disasters that occur in multiple crop years, as determined by the Corporation.”.

#### SEC. 814. INCREASING COVERAGE POLICY.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by striking paragraph (6) and inserting the following:

“(6) INCREASING COVERAGE POLICY.—In the case of a plan of insurance that includes coverage for that percentage of coverage that is not covered under other crop insurance plans offered under this title, the Corporation may pay a portion of the premium of the policy in an amount not to exceed the sum of—

“(A) the cost of administrative and operating expenses, as determined by Corporation; and

“(B) the amount authorized under subsection (e)(2)(D)(i).”.

#### SEC. 815. RATING METHODOLOGIES PILOT PROGRAM.

(a) IN GENERAL.—Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by striking paragraph (8) and inserting the following:

“(8) RATING METHODOLOGIES PILOT PROGRAM.—Not later than September 30, 2000, the Office of Risk Management shall—

“(A) review the methodologies that are used to rate plans of insurance under this title; and

“(B) enter into a contract with a person in the private sector to develop new methodologies for rating plans of insurance under this title that take into account the lower risk pool of—

“(i) producers that elect not to participate in the Federal crop insurance program established under this title; and

“(ii) producers that elect only to obtain catastrophic risk protection under subsection (b).”.

(b) CONFORMING AMENDMENT.—Section 507(c) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)) is amended in the last sentence by striking “Nothing” and inserting “Except as provided in section 508(h)(8), nothing”.

#### SEC. 816. LIVESTOCK INSURANCE.

Section 518 of the Federal Crop Insurance Act (7 U.S.C. 1518) is amended by striking “livestock and”.

#### Subtitle B—Federal Crop Insurance Corporation and Risk Management Agency

#### SEC. 821. BOARD OF DIRECTORS OF CORPORATION.

Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by striking subsection (a) and inserting the following:

“(a) BOARD OF DIRECTORS.—

“(1) IN GENERAL.—The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary.

“(2) COMPOSITION.—The Board shall consist of—

“(A) 2 members who are active agricultural producers with or without crop insurance;

“(B) 1 member who is active in the crop insurance business;

“(C) 1 member who is active in the reinsurance business;

“(D) the Under Secretary for Farm and Foreign Agricultural Services;

“(E) the Under Secretary for Rural Development; and

“(F) the Chief Economist of the Department of Agriculture.

“(3) APPOINTMENT AND TERMS OF PRIVATE SECTOR MEMBERS.—The members of the Board described in subparagraphs (A), (B), and (C) of paragraph (2)—

“(A) shall be appointed by, and hold office at the pleasure of, the Secretary;

“(B) shall not be otherwise employed by the Federal Government;

“(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

“(D) shall serve not more than 2 consecutive terms.

“(4) CHAIRPERSON.—The Board shall select a member of the Board described in subparagraph (A), (B), or (C) of paragraph (2) to serve as Chairperson of the Board.”.

#### SEC. 822. OFFICE OF RISK MANAGEMENT.

Section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933) is amended—

(1) in subsection (a), by striking “Independent Office of Risk Management” and inserting “Office of Risk Management, which shall be under the direction of the Board of Directors of the Federal Crop Insurance Corporation”; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) Assistance to the Board in developing, reviewing, and recommending plans of insurance under section 508(a)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(7)) to ensure that each agricultural commodity (including each new or specialty crop) is adequately served by plans of insurance.”.

#### SEC. 823. OFFICE OF PRIVATE SECTOR PARTNERSHIP.

(a) IN GENERAL.—The Federal Crop Insurance Act is amended by inserting after section 507 (7 U.S.C. 1507) the following:

**“SEC. 507A. OFFICE OF PRIVATE SECTOR PARTNERSHIP.**

“(a) ESTABLISHMENT.—The Secretary shall establish and maintain in the Department an Office of Private Sector Partnership, which shall be under the direction of the Board.

“(b) FUNCTIONS.—The Office shall—

“(1) provide at least monthly reports to the Board on crop insurance issues, which shall be based on comments received from producers, approved insurance providers, and other sources that the Office considers appropriate;

“(2)(A) review policies and materials with respect to—

“(i) subsidized plans of insurance authorized under section 508; and

“(ii) unsubsidized plans of insurance submitted to the Board under section 508(h); and

“(B) make recommendations to the Board with respect to approval of the policies and materials;

“(3) administer the reinsurance functions described in section 508(k) on behalf of the Corporation; and

“(4) perform such other functions as the Board considers appropriate.

“(c) ADMINISTRATOR.—The Office shall be headed by an Administrator who shall be appointed by the Secretary.

“(d) STAFF.—The Administrator shall appoint such employees pursuant to title 5, United States Code, as are necessary for the administration of the Office, including employees who have commercial reinsurance and actuarial experience.”

(b) FUNDING.—Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) salaries and expenses of the Office of Private Sector Partnership.”; and

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking “; and” and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) salaries and expenses of the Office of Private Sector Partnership, but not to exceed \$5,000,000 for each fiscal year; and”.

**SEC. 824. ADEQUATE COVERAGE FOR AGRICULTURAL COMMODITIES.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

“(7) ADEQUATE COVERAGE FOR AGRICULTURAL COMMODITIES.—

“(A) REVIEW.—The Board shall review the plans of insurance that are offered by approved insurance providers under this Act to determine if each agricultural commodity (including each new or specialty crop) is adequately served by the plans.

“(B) RECOMMENDATIONS.—If the Board determines that an agricultural commodity (including a new or specialty crop) is not adequately served by the plans, the Board shall recommend to the Office of Risk Management that the Office—

“(i) develop or (through the Corporation) contract to develop plans of insurance for the agricultural commodity; and

“(ii) provide the plans to approved insurance providers, to be offered for sale to producers.”.

**SEC. 825. FEES FOR PLANS OF INSURANCE.**

(a) IN GENERAL.—Section 508(h)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(5)) is amended—

(1) by striking “Any policy” and inserting the following:

“(A) IN GENERAL.—Any policy”; and

(2) by adding at the end the following:

“(B) FEES FOR EXISTING PLANS OF INSURANCE.—

“(i) IN GENERAL.—Effective beginning with the 2000 reinsurance year, if an approved insurance provider elects to sell a plan of insurance that was developed by another approved insurance provider and the plan of insurance was approved by the Board before January 1, 1999, the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

“(ii) AMOUNT.—The amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be—

“(I) for each of the first 5 crop years that the plan is sold, \$2.00 for each policy under the plan that is sold by the approved insurance provider;

“(II) for each of the next 3 crop years that the plan is sold, \$1.00 for each policy under the plan that is sold by the approved insurance provider; and

“(III) for each crop year thereafter that the plan is sold, 50 cents for each policy under the plan that is sold by the approved insurance provider.

“(C) FEES FOR NEW PLANS OF INSURANCE.—

“(i) IN GENERAL.—Effective beginning with the 2000 reinsurance year, if an approved insurance provider elects to sell a plan of insurance that was developed by another approved insurance provider, the plan of insurance was approved by the Board on or after January 1, 1999, and the plan of insurance was not available at the time the plan of insurance was approved by the Board, the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

“(ii) AMOUNT.—

“(I) IN GENERAL.—Subject to subclause (II), the amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be an amount that is—

“(aa) determined by the approved insurance provider that developed the plan; and

“(bb) approved by the Board.

“(II) APPROVAL.—The Board shall not approve the amount of a fee under clause (i) if the amount of the fee unnecessarily inhibits the use of the plan of insurance, as determined by the Board.

“(D) PAYMENTS.—The Corporation shall annually—

“(i) collect from an approved insurance provider the amount of any fees that are payable by the approved insurance provider under subparagraphs (B) and (C); and

“(ii) credit any fees that are payable to an approved insurance provider under subparagraphs (B) and (C).”.

(b) FUNDING.—Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) (as amended by section 823(b)(2)) is amended—

(1) in subsection (b)(1), by adding at the end the following:

“(E) payment of fees in accordance with section 508(h)(5)(C).”; and

(2) in subsection (c)(1), by inserting “and fees” after “premium income”.

**SEC. 826. FLEXIBLE SUBSIDY PILOT PROGRAM.**

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

“(11) FLEXIBLE SUBSIDY PILOT PROGRAM.—For each of the 2000 through 2002 crop years, the Corporation shall carry out a pilot program under which flexible subsidies are provided under this title to encourage private

sector innovation through exclusive marketing rights and premium rate competition.”.

## AMENDMENT NO. 1066

On page 76, between lines 6 and 7, insert the following:

SEC. 7. FARMER OWNED RESERVE PROGRAM.—(a) RESTORATION.—

(1) IN GENERAL.—Section 171(b)(1) of the Agricultural Market Transition Act (7 U.S.C. 7301(b)(1)) is amended—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (L) as subparagraphs (E) through (K), respectively.

(2) CONFORMING AMENDMENTS.—Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended—

(A) in subsection (b)—

(i) by striking “price support” each place it appears and inserting “marketing assistance”;

(ii) in paragraph (1)—

(I) in the paragraph heading, by striking “PRICE SUPPORT” and inserting “MARKETING ASSISTANCE”; and

(II) in the second sentence, by striking “this title” and inserting “subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)”; and

(iii) in paragraph (2)—

(I) by striking “not be less than” and inserting “not be greater than”; and

(II) by striking “this title” and inserting “subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)”; and

(B) in subsections (n) and (p), by striking “1990” each place it appears and inserting “1999”.

(b) INTEREST CHARGES.—Section 110(c) of the Agricultural Act of 1949 (7 U.S.C. 1445e(c)) is amended—

(1) in paragraph (1), by striking “105 percent of the then current established price for the commodity” and inserting “150 percent of the loan rate for the commodity under this section”; and

(2) in paragraph (2), by striking “105 percent of the established price for the commodities” and inserting “150 percent of the loan rate for the commodity under this section”.

(c) STORAGE PAYMENTS.—Section 110(d) of the Agricultural Act of 1949 (7 U.S.C. 1445e(d)) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) TIMING.—The Secretary shall make storage payments available to participants in this program—

“(A) at the end of each quarter; or

“(B) at the option of the Secretary, not more than 1 year in advance of the date the payments would otherwise be payable under subparagraph (A).

“(3) DURATION.—The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 140 percent of loan rate for the commodities under this section, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 140 percent of the loan rate for the commodities under this section.

“(4) RATES.—To the maximum extent practicable, the Secretary shall ensure that the rates of the storage payments are equivalent to the average rates paid for commercial storage.”.

(d) QUANTITY OF COMMODITIES IN PROGRAM.—Section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) is amended—

(1) in paragraph (1), by striking “less than 300 million bushels, nor more than 450 million bushels” and inserting “more than 300,000,000 bushels”; and

(2) in paragraph (2), by striking "less than 600 million bushels, nor more than 900 million bushels" and inserting "more than 1,000,000,000 bushels".

(e) WITHDRAWAL OF WHEAT AND FEED GRAINS.—Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by striking subsection (h) and inserting the following:

"(h) WITHDRAWAL OF WHEAT AND FEED GRAINS.—In the case of a producer that has wheat or feed grains stored under this section, if the price of wheat or feed grains is—

"(1) less than 130 percent of the loan rate for wheat or feed grains, respectively, under this section, the producer may not withdraw the wheat or feed grains from storage;

"(2) at least 130 percent, but less than 140 percent, of the loan rate for wheat or feed grains, respectively, under this section, the producer may—

"(A) withdraw the wheat or feed grains from storage and repay any loan made for wheat or feed grains under this section; or

"(B) continue to store the wheat or feed grains under this section and receive storage payments for the wheat or feed grains under subsection (d);

"(3) at least 140 percent, but less than 150 percent, of the loan rate for wheat or feed grains, respectively, under this section, the producer may continue to store the wheat or feed grains under this section, but shall not be eligible for storage payments for the wheat or feed grains under subsection (d); or

"(4) 150 percent or more of the loan rate for wheat or feed grains, respectively, under this section, the producer shall withdraw the wheat or feed grains from storage under this section and repay any loan made for wheat or feed grains under this section."

(f) FUNDING.—The entire amount necessary to carry out this section and the amendments made by this section shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

**LEAHY (AND OTHERS)  
AMENDMENT NO. 1067**

(Ordered to lie on the table.)

Mr. LEAHY (for himself, Mr. BINGAMAN, Mr. DASCHLE, and Mrs. FEINSTEIN) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill S. 1233, supra; as follows:

On page 35, line 20, after the semicolon, insert the following: "not to exceed \$12 million shall be for water and waste disposal systems to benefit Federally Recognized Native American Tribes, including grants pursuant to section 306C of such Act, provided that the Federally Recognized Native American Tribe is not eligible for any other rural utilities programs set aside under the Rural Community Advancement Program;"

**STEVENS AMENDMENTS NOS. 1068–1069**

(Ordered to lie on the table.)

Mr. STEVENS submitted, under authority of the order of the Senate of June 24, 1999, two amendments intended to be proposed by him to the bill S. 1233, supra; as follows:

**AMENDMENT NO. 1068**

At the appropriate place insert the following new section:

**SEC. . EDUCATION GRANTS PROGRAM FOR ALASKA NATIVE SERVING INSTITUTIONS.**

(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Alaska Native serving institutions for the purpose of promoting and strengthening the ability of Alaska Native serving institutions to carry out education, applied research, and related community development programs.

(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

(1) to support the activities of consortia of Alaska Native serving institutions to enhance educational equity for under represented students;

(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agriculture sciences;

(3) to attract and support undergraduate and graduate students from under represented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level including by village elders and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

(4) to facilitate cooperative initiatives between two or more Alaska Native serving institutions, or between Alaska Native serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section \$20,000,000 for each of fiscal years 2000 through 2005.

**AMENDMENT NO. 1069**

At the appropriate place insert the following new section:

"SEC. . Public Law 95–113, section 16(a) is amended by inserting after the phrase "Indian reservation under section 11(d) of this Act" the following new phrase: "or in a Native village within the State of Alaska identified in section 11(b) of Public Law 92–203, as amended"."

**INOUYE AMENDMENT NO. 1070**

(Ordered to lie on the table.)

Mr. INOUYE submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

At the appropriate place in the bill, insert the following new section:

**SEC. . EDUCATION GRANTS PROGRAM FOR NATIVE HAWAIIAN SERVING INSTITUTIONS.**

(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Native Hawaiian serving institutions for the purpose of promoting and strengthening the ability of Native Hawaiian serving institutions to carry out education, applied research, and related community development programs.

(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

(1) to support the activities of consortia of Native Hawaiian serving institutions to enhance educational equity for underrepresented students;

(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agriculture sciences;

(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

(4) to facilitate cooperative initiatives between two or more Native Hawaiian serving institutions, or between Native Hawaiian serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section \$20,000,000 for each of fiscal years 2000 through 2005.

**BRYAN (AND REID) AMENDMENT  
NO. 1071**

(Ordered to lie on the table.)

Mr. BRYAN (for himself and Mr. REID) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill, S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . DEREGULATION OF PRODUCER MILK PRICES IN CLARK COUNTY, NEVADA.—Effective October 1, 1999, section 8c(11) of the Agricultural Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(D) PRODUCER MILK PRICES IN CLARK COUNTY, NEVADA.—The price of milk received by producers located in Clark County, Nevada, shall not be subject to any order issued under this section or any other regulation by the Secretary."

**FEINGOLD AMENDMENTS NOS.  
1072–1073**

(Ordered to lie on the table.)

Mr. FEINGOLD submitted, under authority of the order of the Senate of June 24, 1999, two amendments intended to be proposed by him to the bill S. 1233, supra; as follows:

**AMENDMENT NO. 1072**

On page 76, between lines 6 and 7, insert the following:

SEC. 7 . INDICATION OF COUNTRY OF ORIGIN OF IMPORTED GINSENG.—(a) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—A retailer of ginseng imported into the United States shall inform consumers, at the final point of sale to consumers, of the country of origin of the ginseng.

(b) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark,

placard, or other clear and visible sign on the imported ginseng or on the package, display, holding unit, or bin containing the ginseng at the final point of sale to consumers.

(2) EXISTING LABELING.—If the imported ginseng is already labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information in order to comply with this section.

(c) VIOLATIONS.—If a retailer fails to indicate the country of origin of imported ginseng as required by subsection (a), the Secretary of Agriculture may impose a monetary penalty on the retailer in an amount not to exceed—

(1) \$1,000 for the first day on which the violation occurs; and

(2) \$250 for each day on which the violation continues.

(d) DEPOSIT OF FUNDS.—Amounts collected under subsection (c) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) APPLICATION.—This section shall apply with respect to ginseng imported into the United States after the end of the 180-day period beginning on the date of enactment of this Act.

SEC. 7. AVAILABILITY OF DATA ON IMPORTED HERBS.—The Secretary of Agriculture and the Secretary of the Treasury, acting through the United States Customs Service, shall publish and otherwise make available (including through electronic media) data collected monthly by each Secretary on herbs imported into the United States.

#### AMENDMENT No. 1073

On page 76, between lines 6 and 7, insert the following:

SEC. 7. UNREPORTED IMPORTATION OF GINSENG PRODUCTS.—It is the sense of the Senate that the Secretary of the Treasury, acting through the United States Customs Service, should, to the maximum extent practicable, conduct investigations into, and take such other actions as are necessary to prevent, the importation of ginseng products into the United States from foreign countries, including Canada and Asian countries, unless the importation is reported to the Service, as required under Federal law.

#### TORRICELLI AMENDMENTS NOS. 1074–1083

(Ordered to lie on the table.)

Mr. TORRICELLI submitted, under authority of the order of the Senate of June 24, 1999, 10 amendments intended to be proposed by him to the bill, S. 1233, supra; as follows:

#### AMENDMENT No. 1074

At the appropriate place, insert the following:

#### SEC. . LICENSING REQUIREMENT FOR COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

The export of any medicine, medical device, or agricultural commodity sold under contract to any country the government of which the Secretary of States determines under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism shall be made pursuant to a specific license.

#### AMENDMENT No. 1075

At the end of the amendment, add the following new section:

SEC. . (a) TREATMENT OF SALES IF COUNTRY IS ON THE LIST OF TERRORIST STATES.—At any time during which a country has been determined by the Secretary of State to have

repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to such country shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

#### AMENDMENT No. 1076

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Cuba, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1077

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with North Korea, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1078

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iran, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1079

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iraq, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1080

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Libya, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1081

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial

transactions with Sudan, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1082

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Syria, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1083

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing any commercial sale that is otherwise prohibited by law to any country that on June 20, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### HELMS AMENDMENTS NOS. 1084–1093

(Ordered to lie on the table.)

Mr. HELMS submitted, under authority of the order of the Senate of June 24, 1999, 10 amendments intended to be proposed by him to the bill, S. 1233, supra; as follows:

#### AMENDMENT No. 1084

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing any commercial sale that is otherwise prohibited by law to any country that on June 20, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1085

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit commercial transactions with Cuba, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1086

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with North Korea, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AMENDMENT No. 1087

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or Government States Government credit for commercial transactions with Iran, which has been

determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 1088

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iraq, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 1089

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Libya, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 1090

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Sudan, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 1091

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Syria, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 1092

At the appropriate place, insert the following:

**SEC. . LICENSING REQUIREMENT FOR COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.**

The export of any medicine, medical device, or agricultural commodity sold under contract to any country the government of which the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism shall be made pursuant to a specific license.

AMENDMENT NO. 1093

At the appropriate place, add the following new section:

SEC. . (a) TREATMENT OF SALES IF COUNTRY IS ON THE LIST OF TERRORIST STATES.—At any time during which a country has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to such country shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

**SANTORUM (AND OTHERS)  
AMENDMENT NO. 1094**

(Ordered to lie on the table.)

Mr. SANTORUM (for himself, Mr. LEAHY and Mr. SPECTER) submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by them to the bill S. 1233, supra; as follows:

On page 31, line 5, after "forecasting", insert the following: " , up to \$10,000,000 may be used to carry out the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104-127)." .

**STEVENS AMENDMENT NO. 1095**

(Ordered to lie on the table.)

Mr. STEVENS submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

At the appropriate place insert the following new section:

"SEC. . Beginning in the fiscal year 2000 and periodically thereafter, the Secretary shall review the Food Packages listed at 7 C.F.R. 246.10(c) (1996) and consider including additional nutritious foods for women, infants and children."

**BAUCUS AMENDMENT NO. 1096**

(Ordered to lie on the table.)

Mr. BAUCUS submitted, under authority of the order of the Senate of June 24, 1999, an amendment intended to be proposed by him to the bill S. 1233, supra; as follows:

On page 45, after line 22, insert the following:

**INCREASE**

Each amount made available under this title shall be increased, on a pro rata basis, by an amount equal to the difference between the total amount made available to carry out this title for fiscal year 1999 and the total amount made available under the other headings of this title.

**AMENDMENTS SUBMITTED—JUNE  
28, 1999**

**AGRICULTURE, RURAL DEVELOPMENT,  
FOOD AND DRUG ADMINISTRATION,  
AND RELATED AGENCIES ACT, 2000**

**SMITH AMENDMENT NO. 1097**

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

At the appropriate place in the bill, add the following:

"SEC. . That notwithstanding section 306(a)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(7)), the city of Berlin, New Hampshire, shall be eligible during fiscal year 2000 for a rural utilities grant or loan under the Rural Community Advancement Program."

**KOHL AMENDMENTS NOS. 1098-1102**

(Ordered to lie on the table.)

Mr. KOHL submitted five amendments intended to be proposed by him to the bill S. 1233, supra; as follows:

**AMENDMENT NO. 1098**

Beginning on page 3 of the amendment, strike line 11 and all that follows through page 6, line 4.

**AMENDMENT NO. 1099**

Beginning on page 1, line 4, of the amendment, strike "(a)" and all that follows through page 3, line 10.

**AMENDMENT NO. 1100**

Beginning on page 1, line 4, of the amendment, strike "(a)" and all that follows through page 6, line 4.

**AMENDMENT NO. 1101**

On page 6 of the amendment, strike lines 9 through 21.

**AMENDMENT NO. 1102**

Beginning on page 6 of the amendment, strike line 23 and all that follows through page 7, line 15.

**LOTT AMENDMENT NO. 1103**

Mr. LOTT proposed an amendment to amendment No. 737 proposed by Mrs. FEINSTEIN to the bill, S. 1233, supra; as follows:

Strike all after the first word and insert the following:

**TITLE —ACCESS TO QUALITY,  
AFFORDABLE HEALTH CARE**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Patients' Bill of Rights Act".

**Subtitle A—Health Insurance Bill of Rights  
CHAPTER 1—ACCESS TO CARE**

**SEC. 101. ACCESS TO EMERGENCY CARE.**

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider without prior authorization by the plan or issuer, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan or issuer; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term “emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term “emergency services” means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection), if the services are maintenance care or post-stabilization care covered under such guidelines.

**SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.**

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage; and

(B) one or more coverage options that do not provide benefits only through participating health care providers.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term “point-of-service coverage” means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

**SEC. 103. CHOICE OF PROVIDERS.**

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

**SEC. 104. ACCESS TO SPECIALTY CARE.**

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage, the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term “specialist” means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may

receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

#### SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as

if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination, the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding refer-

als and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

#### SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or

issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term “approved clinical trial” means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a

group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage. This subsection shall only apply to a plan's or issuer's application of restrictions on the participation of health care providers in a network and shall not be construed as requiring a plan or issuer to create or establish new health care providers in an area.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage. Pursuant to section 192(b), except as provided in section 152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance issuer to provide specific benefits under the terms of such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section 114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction (including satisfaction with respect to services to children) of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible

and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

(e) EXCEPTION FOR NON-MEDICAL, RELIGIOUS CARE PROVIDERS.—The requirements of subsection (a), insofar as they may apply to a provider of health care, do not apply to a provider that provides no medical care and that provides only a religious method of healing or religious nonmedical nursing care.

#### SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based non-discrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

#### SEC. 114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance

coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section 111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

#### SEC. 115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined

in section 191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual,

the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

**SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.**

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

**CHAPTER 3—PATIENT INFORMATION**

**SEC. 121. PATIENT INFORMATION.**

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses,

and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable

authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) **QUALITY ASSURANCE.**—A summary description of the data on quality collected under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) **SUMMARY OF PROVIDER FINANCIAL INCENTIVES.**—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) **INFORMATION ON ISSUER.**—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) **AVAILABILITY OF INFORMATION ON REQUEST.**—Notice that the information described in subsection (c) is available upon request.

(c) **INFORMATION MADE AVAILABLE UPON REQUEST.**—The information described in this subsection is the following:

(1) **UTILIZATION REVIEW ACTIVITIES.**—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 115, including under any drug formulary program under section 107.

(2) **GRIEVANCE AND APPEALS INFORMATION.**—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) **METHOD OF PHYSICIAN COMPENSATION.**—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) **SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.**—In the case of each participating provider, a description of the credentials of the provider.

(5) **CONFIDENTIALITY POLICIES AND PROCEDURES.**—A description of the policies and procedures established to carry out section 122.

(6) **FORMULARY RESTRICTIONS.**—A description of the nature of any drug formula restrictions.

(7) **PARTICIPATING PROVIDER LIST.**—A list of current participating health care providers.

(d) **FORM OF DISCLOSURE.**—

(1) **UNIFORMITY.**—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) **INFORMATION INTO HANDBOOK.**—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) **UPDATING PARTICIPATING PROVIDER INFORMATION.**—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or

updating other information made available under this section.

(e) **CONSTRUCTION.**—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

**SEC. 122. PROTECTION OF PATIENT CONFIDENTIALITY.**

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

**SEC. 123. HEALTH INSURANCE OMBUDSMEN.**

(a) **IN GENERAL.**—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) **FEDERAL ROLE.**—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) **CONSTRUCTION.**—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

**CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES**

**SEC. 131. ESTABLISHMENT OF GRIEVANCE PROCESS.**

(a) **ESTABLISHMENT OF GRIEVANCE SYSTEM.**—

(1) **IN GENERAL.**—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) **SCOPE.**—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and

compliance with the requirements of this subtitle.

(b) **GRIEVANCE SYSTEM.**—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section 111(a) of all grievances and appeals relating to quality of care.

**SEC. 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.**

(a) **RIGHT OF APPEAL.**—

(1) **IN GENERAL.**—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section 121(b)(8).

(2) **APPEALABLE DECISION DEFINED.**—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section 101.

(C) Failure to provide a choice of provider under section 103.

(D) Failure to provide qualified health care providers under section 103.

(E) Failure to provide access to specialty and other care under section 104.

(F) Failure to provide continuation of care under section 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section 106.

(H) Failure to provide access to needed drugs under section 107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section 109.

(J) An adverse determination under a utilization review program under section 115.

(K) The imposition of a limitation that is prohibited under section 151.

(b) **INTERNAL APPEAL PROCESS.**—

(1) **IN GENERAL.**—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, or enrollee, or any provider or other person acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal

appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(C) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee (including in the case of a child, development) or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal; and

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or

provider's option, proceed directly to seek further appeal through any applicable external appeals process.

**SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.**

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized (including, in the case of a child, development) as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the

standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the State has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

#### CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

### SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols

that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

### SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

### SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

### SEC. 144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed

reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for

which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;  
(B) a lumpectomy; or  
(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as

superseding a State law described in paragraph (1).

#### CHAPTER 7—DEFINITIONS

##### SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term “appropriate Secretary” means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2707 and 2753 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 714 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term “applicable authority” means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term “clinical peer” means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term “health care provider” includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term “non-participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term “participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

##### SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which estab-

lishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in section 152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term “State law” includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term “State” includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

##### SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

##### Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage Under Public Health Service Act

##### SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

##### “SEC. 2707. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients’ Bill of Rights Act of 1999, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.”.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting “(other than section 2707)” after “requirements of such subparts”.

##### SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Subpart 3 of part B of title XXVII of the Public Health Service Act, as amended by

the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

##### “SEC. 2753. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients’ Bill of Rights Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.”.

##### Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

##### SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

##### “SEC. 714. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients’ Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

“(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

“(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients’ Bill of Rights Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

“(A) Section 101 (relating to access to emergency care).

“(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

“(C) Section 103 (relating to choice of providers).

“(D) Section 104 (relating to access to specialty care).

“(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

“(F) Section 106 (relating to coverage for individuals participating in approved clinical trials.)

“(G) Section 107 (relating to access to needed prescription drugs).

“(H) Section \_\_\_108 (relating to adequacy of provider network).

“(I) Chapter 2 of subtitle A (relating to quality assurance).

“(J) Section \_\_\_143 (relating to additional rules regarding participation of health care professionals).

“(K) Section \_\_\_152 (relating to standards relating to benefits for certain breast cancer treatment).

“(2) INFORMATION.—With respect to information required to be provided or made available under section \_\_\_121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

“(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

“(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section \_\_\_133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

“(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

“(A) Section \_\_\_109 (relating to non-discrimination in delivery of services).

“(B) Section \_\_\_141 (relating to prohibition of interference with certain medical communications).

“(C) Section \_\_\_142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

“(D) Section \_\_\_144 (relating to prohibition on retaliation).

“(E) Section \_\_\_151 (relating to promoting good medical practice).

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

“(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section \_\_\_144(b)(1) of the Patients' Bill of Rights Act of 1999, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

“(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

“(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section \_\_\_144(b)(1) of the Patients' Bill of Rights Act of 1999 may file with the Secretary a

complaint within 180 days of the date of the alleged retaliation or discrimination.

“(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

“(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.”

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by inserting “(a)” after “SEC. 503.” and by adding at the end the following new subsection:

“(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section \_\_\_115) of subtitle A of the Patients' Bill of Rights Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.”

(c) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Patient protection standards.”

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting “(other than section 144(b))” after “part 7”.

**SEC. \_\_\_302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICY-HOLDERS.**

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

“(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

“(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

“(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

“(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

“(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

“(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

“(i) any cause of action against an employer or other plan sponsor maintaining the group health plan or against an employee of such an employer or sponsor acting within the scope of employment, or

“(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages

assessed against the person pursuant to a cause of action under paragraph (1).

“(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

“(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

“(ii) the exercise by such employer or other plan sponsor (or employee of such authority) resulted in personal injury or wrongful death.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.

“(4) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

**SEC. \_\_\_303. LIMITATION IN ACTIONS.**

Section 502 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

“(n)(1) Except as provided in this section, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in chapter 1 (other than section \_\_\_109) of subtitle A, chapter 5 of subtitle A, or section \_\_\_115 or \_\_\_151 of the Patient's Bill of Rights Act of 1999 (as incorporated under section 714).

“(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section \_\_\_101, \_\_\_104, \_\_\_105, \_\_\_106, \_\_\_107(a)(3), \_\_\_107(b), \_\_\_115, or \_\_\_151 of the Patient's Bill of Rights Act of 1999 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary; except that—

“(A) such an action may not be brought or maintained as a class action; and

“(B) in such an action relief may only provide for the provision of (or payment for) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary and for any relief to any other person.

“(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.”

**Subtitle D—Application to Group Health Plans under the Internal Revenue Code of 1986**

**SEC. \_\_\_401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

“Sec. 9813. Standard relating to patient freedom of choice.”; and

(2) by inserting after section 9812 the following:

**“SEC. 9813. STANDARD RELATING TO PATIENTS’ BILL OF RIGHTS.**

“A group health plan shall comply with the requirements of subtitle A of the Patients’ Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.”

**Subtitle E—Effective Dates; Coordination in Implementation****SEC. 501. EFFECTIVE DATES AND RELATED RULES.****(a) GROUP HEALTH COVERAGE.—**

(1) **IN GENERAL.**—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2000 (in this section referred to as the “general effective date”).

(2) **TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this title, the amendments made by sections 201(a), 301, and 401 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) **INDIVIDUAL HEALTH INSURANCE COVERAGE.**—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

**(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—**

(1) **IN GENERAL.**—Nothing in this title (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) **RELIGIOUS NONMEDICAL PROVIDER.**—For purposes of this subsection, the term “relig-

ious nonmedical provider” means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

**SEC. 502. COORDINATION IN IMPLEMENTATION.**

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking “this subtitle (and the amendments made by this subtitle and section 401)” and inserting “the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and subtitle A of the Patients’ Bill of Rights Act of 1999”.

**SEC. 503. NO IMPACT ON SOCIAL SECURITY TRUST FUND.**

(a) **IN GENERAL.**—Nothing in this title shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

**(b) TRANSFERS.—**

(1) **ESTIMATE OF SECRETARY.**—The Secretary of the Treasury shall annually estimate the impact that the enactment of this title has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) **TRANSFER OF FUNDS.**—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this title has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such title.

**Subtitle F—Revenue-Related Provisions****SEC. 601. INFORMATION REQUIREMENTS.**

(a) **INFORMATION FROM GROUP HEALTH PLANS.**—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

“(7) **INFORMATION FROM GROUP HEALTH PLANS.**—

“(A) **PROVISION OF INFORMATION BY GROUP HEALTH PLANS.**—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than 4 times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

“(B) **PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.**—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

“(C) **INFORMATION ELEMENTS.**—The information elements described in this subparagraph are the following:

“(i) **ELEMENTS CONCERNING THE INDIVIDUAL.**—

“(I) The individual’s name.

“(II) The individual’s date of birth.

“(III) The individual’s sex.

“(IV) The individual’s social security insurance number.

“(V) The number assigned by the Secretary to the individual for claims under this title.

“(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

“(ii) **ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.**—

“(I) The name of the person in the individual’s family who has current or former employment status with the employer.

“(II) That person’s social security insurance number.

“(III) The number or other identifier assigned by the plan to that person.

“(IV) The periods of coverage for that person under the plan.

“(V) The employment status of that person (current or former) during those periods of coverage.

“(VI) The classes (of that person’s family members) covered under the plan.

“(iii) **PLAN ELEMENTS.**—

“(I) The items and services covered under the plan.

“(II) The name and address to which claims under the plan are to be sent.

“(iv) **ELEMENTS CONCERNING THE EMPLOYER.**—

“(I) The employer’s name.

“(II) The employer’s address.

“(III) The employer identification number of the employer.

“(D) **USE OF IDENTIFIERS.**—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

“(E) **PENALTY FOR NONCOMPLIANCE.**—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed \$1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

**SEC. 602. 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 December 31, 1998, and before January 1, 2010.”

(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 September 15, 1999, and before October 1, 2009.”

**(b) EFFECTIVE DATES.—**

(1) **INCOME TAX.**—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1998.

(2) **EXCISE TAX.**—The amendment made by subsection (a)(2) shall take effect on September 15, 1999.

**SEC. 603. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRY-OVER 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, 2001.

**SEC. 604. LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.**

(a) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) of the Internal Revenue Code of 1986 (relating to exception for 10 or more employer plans) is amended to read as follows:

“(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

“(i) Medical benefits.

“(ii) Disability benefits.

“(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.”

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) of the Internal Revenue Code of 1986 (defining disqualified benefit) is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

“(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

“(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 605. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.**

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

“(a) USE OF INSTALLMENT METHOD.—

“(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

“(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (1)(2).”

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of the Internal Revenue Code of 1986 are each amended by striking “(a)” each place it appears and inserting “(a)(1)”.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: “A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

**TORRICELLI AMENDMENT NO. 1104**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1092 proposed by Mr. HELMS, to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or others transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1105**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1093 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1106**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1091 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1107**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1090 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1108**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1089 proposed by Mr. HELMS to the bill S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1109**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1087 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1110**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1087 proposed by Mr. HELMS to the bill S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

**TORRICELLI AMENDMENT NO. 1111**

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1086 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after “Sec.” and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

## TORRICELLI AMENDMENT NO. 1112

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1085 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after "Sec." and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

## TORRICELLI AMENDMENT NO. 1113

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to amendment No. 1084 proposed by Mr. HELMS to the bill, S. 1233, supra; as follows:

Strike all after "Sec." and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

## JEFFORDS AMENDMENT NO. 1114

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

Beginning on page 1, line 3, strike all that follows "SEC." to the end of the amendment and insert the following:

DAIRY COMPACTS; FEDERAL MILK MARKETING ORDERS.—(a) NORTHEAST INTERSTATE DAIRY COMPACT.—Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking "Massachusetts, New Hampshire," and inserting "Maryland, Massachusetts, New Hampshire, New Jersey, New York,";

(2) by striking paragraphs (1) and (7);

(3) in paragraph (3), by striking "concurrent" and all that follows through "section 143" and inserting "on December 31, 2002";

(4) in paragraph (4), by striking "Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia" and inserting "Delaware, Ohio, and Pennsylvania";

(5) in paragraph (5), by striking "the projected rate of increase" and all that follows through "Secretary" and inserting "the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code";

(6) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively; and

(7) by adding at the end the following:

"(6) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Secretary for the cost of any milk and milk products provided under the special milk program authorized under section 3 of the

Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code."

(b) SOUTHERN DAIRY COMPACT.—

(1) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia as specified in section 201(b) of Senate Joint Resolution 22 of the 106th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(A) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (referred to in this subsection as a "Federal milk marketing order") unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(B) DURATION.—Consent for the Southern Dairy Compact shall terminate on December 31, 2002.

(C) ADDITIONAL STATES.—The States of Florida, Georgia, Missouri, Oklahoma, Kansas, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(D) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary of Agriculture (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(E) COMPENSATION OF SPECIAL MILK PROGRAM.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Secretary of Agriculture for the cost of any milk and milk products provided under the special milk program authorized under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772) that results from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(F) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this subsection is reserved.

(c) FEDERAL MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253) is amended by adding at the end the following:

"(e) FLUID OR CLASS I MILK.—In implementing the final decision for the consolidation and reform of Federal milk marketing orders under this section (including the deci-

sion of the Secretary published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16026)) (referred to in this section as the 'final decision'), effective beginning on the earlier of the date of enactment of this subsection or October 1, 1999, the Secretary shall implement, as the method for pricing fluid or Class I milk under the orders, the Class I price structure identified as Option 1A in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4975-5020) (as amended on February 25, 1998 (63 Fed. Reg. 9686)).

"(f) CLASS II, III, AND III-A MILK.—

"(1) IN GENERAL.—In implementing the final decision, during the period beginning on the date of enactment of this subsection and ending on the date on which the actions required by paragraph (2) are complete, the Secretary shall implement, as the method for pricing milk classified as Class II, III, or III-A milk under the orders, the pricing published in the Federal Register for—

"(A) Class III-A milk on October 29, 1993 (58 Fed. Reg. 58112);

"(B) Class II milk on December 14, 1994 (59 Fed. Reg. 64524);

"(C) Class II, III, and III-A milk on February 7, 1995 (60 Fed. Reg. 7290); and

"(D) Class III milk on June 4, 1997 (62 Fed. Reg. 30564);

rather than the prices included as part of the final decision.

"(2) FORMAL RULEMAKING.—

"(A) IN GENERAL.—Not later than 60 days after a referendum is conducted to approve a consolidated order under this section, the Secretary shall conduct rulemaking, on the record after opportunity for an agency hearing, on proposed formulae for determining prices for Classes II, III, and III-A milk in accordance with the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

"(B) RECOMMENDED AND FINAL DECISIONS.—The Secretary shall issue—

"(i) a recommended decision on a formula described in subparagraph (A) not later than 120 days after the close of the hearing; and

"(ii) a final decision on the formula not later than 120 days after the issuance of the recommended decision.

"(4) COMPULSORY REPORTING OF PRICES AND COSTS.—If the Secretary bases any price under this subsection on a survey of prices at which commodities are sold or the costs of plants used to purchase and produce the commodities, the Secretary may, by rule, require all plants purchasing milk, regardless of whether the milk is subject to Federal milk marketing orders, to report such data as are necessary to conduct an accurate survey of those prices and costs.

"(g) IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall—

"(A) revise the final decision to reflect and comply with the requirements of subsections (e) and (f); and

"(B) issue proposed consolidated orders under this section.

"(2) REFERENDA.—As soon as practicable after revising the final decision and issuing a proposed consolidated order, the Secretary shall conduct a referendum among affected producers to determine whether the producers approve each consolidated order."

(2) CONFORMING AMENDMENTS.—Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681-30), is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(C) in subsection (a) (as so redesignated)—

(i) by striking "subsection (a)(2) of such section" and inserting "section 143(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)(2))"; and

(ii) by striking "final rule referred to in subsection (a)" and by inserting "final rule to implement the amendments to Federal milk marketing orders required by section 143(a)(1) of that Act".

(d) EFFECTIVE DATE.—The section and the amendments made by this section take effect on the earlier of—

- (1) the date of enactment of this section; or
- (2) October 1, 1999.

#### LANDRIEU AMENDMENT NO. 1115

(Ordered to lie on the table.)

Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill, S. 1233, supra; as follows:

On page 10, line 19, strike "*Provided,*" and insert "*Provided, That not less than \$5,000,000 shall be used to carry out the ongoing formosan termite control and research program at the Southern Regional Research Center: Provided further,*".

#### TORRICELLI AMENDMENTS NOS. 1116-1117

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1233, supra; as follows:

##### AMENDMENT NO. 1116

At the appropriate place, add the following:

SEC. . Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Cuba, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

##### AMENDMENT NO. 1117

Strike all after "Sec." and insert in lieu thereof the following:

SEC. . Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that, on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

#### AUTHORITY FOR COMMITTEE TO MEET

##### COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, June 28, 1999, at 3:45 p.m. to hold a hearing.

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

#### ADDITIONAL STATEMENTS

##### CONGRATULATING ROBERT W. SMITH

• Mr. CRAPO. Mr. President, I rise to bring to the attention of my colleagues

a significant achievement in the field of environmental science.

Lockheed Martin Corporation annually recognizes 50 of its 170,000 employees with NOVA awards for technical excellence. Mr. Robert W. Smith of Lockheed Martin Idaho Technologies Company, the operating contractor of the Idaho National Engineering and Environmental Laboratory, INEEL, was cited for his valuable work in utilizing microbial communities in the subsurface to contribute to the remediation of contaminants resulting from nuclear energy and weapons research.

Mr. Smith heads teams comprised of scientists from the Pacific Northwest National Laboratory, Princeton University, and Portland State University. They represent the best in field scale research of biogeochemistry processes. The natural processes that Mr. Smith and his teams uncover will be incorporated into future efforts to clean up the legacy of waste from the nuclear energy complex and contamination problems on other agency lands. Mr. Smith expects that instead of massive engineering solutions to remove the waste, natural processes that cause less environmental disturbance will be more commonly utilized.

I congratulate Mr. Smith on receiving this award. The achievement also recognizes that his success could not have been made without the dedication of his team members. There are an array of environmental stewardship and natural resource problems ranging from mining reclamation to global climate impacts that could be solved through collaborative research. Objective science and reasonable solutions would then be available for policy makers, agency executives, and advocate groups involved in critical natural resource issues. More can be accomplished when parties work together to solve problems than through conflict. I urge each of my colleagues to keep these concepts in mind as we debate and consider investing in basic science, research, and the environment.●

#### IN RECOGNITION OF THE 175TH BIRTHDAY OF THE CITY OF TECUMSEH, MICHIGAN

• Mr. LEVIN. Mr. President, I rise today to recognize the City of Tecumseh, Michigan, as it celebrates its 175th birthday.

Located in Lenawee County, Tecumseh was one of the first three settlements established in 1824 in what was then the Michigan Territory. The settlement's founders, Musgrove Evans, Joseph Brown and Austin Wing, chose its location because of its fertile soil, good supply of timber and its proximity to the Raisin River. They named their new home after the Shawnee Chief Tecumseh, who is said to have held war councils on the site.

A growing agricultural community, Tecumseh's first rail line was built in 1838, and train service continued until the late 1970s. Tecumseh was not only a

stop on the actual railroad, but was also a stop on the Underground Railroad. Many people in Tecumseh displayed their strong anti-slavery sentiment, and their Quaker beliefs, by providing shelter to slaves escaping from the South.

Through the years, the landscape around Tecumseh has changed, as have the ways in which its people make their living. While it was primarily a small agricultural town, today the economy of Tecumseh mostly revolves around industry. In fact, its largest employer, Tecumseh Products, was founded in 1934 and grew to become a Fortune 500 company.

Mr. President, Tecumseh is notable for its significance in Michigan's history, but its most dependable asset over the last 175 years has been its people. It is fitting that we recognize Tecumseh's residents as they celebrate the past while looking to build an even better future. I know my colleagues will join me in offering the people of Tecumseh congratulations and best wishes on this important occasion.●

#### TRIBUTE TO AURELIE V. BURNHAM

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Aurelie V. Burnham on her 91st birthday.

Aurelie was born on July 5, 1908 in East Weare, New Hampshire to Fred and May Bellefeuille. Aurelie's mother, May, died in 1915 leaving Aurelie to care for her older brother, four younger brothers and her father Fred. In 1920, the Bellefeuille farm burned down, thus forcing Fred to move his family to the mill town of Manchester, New Hampshire. Fred later remarried a widow with four daughters and one son; together, they had a son—bringing the total number of children in the Bellefeuille family to eleven.

At the age of sixteen, Aurelie began working at the Amoskeag Mills. On December 9, 1938, she married Arthur H. Burnham. Arthur, a native of Peterborough, New Hampshire lived in the Nashua-Hudson area. After their marriage, they resided in Manchester where they raised their three children: Dorothy, Joanne and Arthur, Jr. Dorothy, a senior caseworker in my Manchester office, has been a valued member of my staff for the past fifteen years. Joanne is employed with the Internal Revenue Service and Arthur, Jr. is a computer programmer for the Associates National Bank in Dallas, Texas. Aurelie and Arthur have six grandchildren. Mr. Burnham passed away in September 1979.

Aurelie is known for her kindness and caring. She was a stay-at-home mother who was always there for her children and their friends. Aurelie has been a volunteer on several federal campaigns. Though her physical health is not what she would prefer, she is still an avid reader, crossword puzzle expert, and manages to go shopping at

the malls whenever possible. During the summer months, she enjoys a trip to the seacoast where she says she can breathe in the ocean air and feel more comfortable.

Once again, I would like to congratulate Aurelie on reaching her 91st birthday. It is an honor to represent her in the United States Senate.●

#### A TRIBUTE TO THE LATE JUDGE PHILIP E. LAGANA

● Mr. SCHUMER. Mr. President, I rise today to pay tribute to Judge Philip E. Lagana, a retired Justice of the Supreme Court of the State of New York who recently passed away. Judge Lagana leaves behind a legacy of fairness and compassion as a Justice. He was not afraid to make difficult decisions, explore new concepts, or develop new theories, and he serves as an example to all in terms of not only how to be an exemplary justice but also how to be an exemplary human being.

Judge Lagana was born in Brooklyn, New York, and spent his lifetime serving his community. He attended Georgetown University, and then Brooklyn Law School, after which he began a private practice in the field of criminal law. Soon after, he began a long and distinguished career of public service, beginning in the Kings County District Attorney's Office, where he was appointed an Assistant District Attorney. He was rapidly promoted to the position of Deputy Chief of the Supreme Court Trial Assistants, where he set up a Bureau of Major Offenses. Upon completion of this task, Judge Lagana was appointed Chief of this bureau. In 1974, then-mayor Abe Beame made Judge Lagana the President of the New York City Tax Commission. In 1975, he was elected to the Supreme Court of the State of New York. His election served as recognition by the public of his many years of public service.

As a Justice of the Supreme Court of the State of New York, Judge Lagana acted with firmness, fairness, and compassion. His actions found support from the appellate bench which reviewed them, from the lawyers who argued before him, from his fellow justices, and from the public. He was reelected for an additional 14-year term.

In 1992, Judge Lagana retired from the bench, leaving behind a proud legacy as a distinguished public servant, and taking with him many accolades and honors, among them from the Catholic Lawyers Guild, the Columbian Lawyers Association, the Kings County Criminal Bar Association, the Brooklyn Bar Association, the New York State Real Estate Board, the United Jewish Appeal, Marlboro Memorial Post No. 1437, the American Legion and its Women's Club, and the 46 A.D. Democratic Club.

Judge Lagana will be remembered as a dedicated public servant and as a decent person who had a loving commitment and dedication to his family,

country, and society. Judge Lagana will be missed.●

#### THE SOCIAL SECURITY LOCKBOX

Mr. ASHCROFT. Mr. President, today is a great day for American taxpayers and especially for senior citizens. I come to the floor to welcome the President's endorsement of the lockbox plan to protect the Social Security surplus. I am gratified to hear that he now agrees with our congressional effort to protect every dollar of the current Social Security surplus for future obligations that the Social Security trust fund has to America's retirees.

I believe the President's statement today can lead to a bipartisan agreement to protect Social Security. It is a fact that the President's statement today reverses his earlier policy to use \$158 billion out of the Social Security trust fund surpluses over the next 5 years to finance increased spending. So this is welcome news. It is good news. It provides us with the basis for an agreement and the achievement of a public good—to help American citizens, particularly older Americans, in their concerns about their retirement.

When the President first submitted his budget proposal that included spending, instead of saving, a portion of the Social Security surplus, congressional Republicans, in the House and in the Senate, began working to ensure that every dollar—not just some of the money but every dollar—of the forthcoming Social Security surplus was reserved for one thing—for Social Security.

In March, Senator DOMENICI and I introduced S. 502, the Protect Social Security Benefits Act, which would have instituted a point of order preventing Congress from spending any Social Security dollars for non-Social Security purposes.

In April, under the strong direction of Senator DOMENICI, the Senate passed a budget resolution that did not spend any of the Social Security surpluses for the next decade, and included in the resolution was language endorsing the idea of locking away the Social Security surpluses. This language passed with the unanimous approval of the Senate.

Also in April, Senators ABRAHAM and DOMENICI and I introduced the Social Security lockbox amendment which would have added executive responsibilities to the congressional requirement to protect Social Security surpluses. That executive responsibility would have demanded that the President submit budgets that did not invade the Social Security surplus as a means of covering deficits in the rest of Government. The Senate has voted on the Abraham-Domenici-Ashcroft plan three times, and the measure has yet to win a single Democratic vote.

On May 26, the House overwhelmingly passed H.R. 1259. That was Congressman HERGER's measure to protect

the surpluses of Social Security. It did so in a bipartisan vote in the House, a vote of 416 to 12. On June 10, the Democrats in the Senate blocked the Herger measure as well, just as they had blocked the measures which had been proposed in this body. But the House, in a bipartisan way, voted 416 to 12.

These repeated votes on a Social Security lockbox demonstrate congressional Republicans' dedication to protecting every dollar of the projected Social Security surpluses and using them to shore up the Social Security system. It is essential to protect Social Security so we can ensure the long-term viability of America's most vital social program. We must restore the public's confidence that money paid into Social Security will be paid out only for Social Security benefits. The lockbox would accomplish this important goal.

Over the next 5 years, Social Security taxes will bring in an estimated \$776 billion in surpluses. Those who say they want to protect Social Security should join us in our efforts to create this lockbox so that every dime, every cent, of this money for Social Security, paid in for Social Security, will be reserved for Social Security's future beneficiaries. The lockbox is the way to make this happen.

The Congress is and has been moving to create a Social Security lockbox for this entire year. The President's staff said yesterday that the President will unveil his own Social Security lockbox proposal. If the President does, indeed, have a plan he wishes to offer, I urge him to bring it to Congress immediately so we can examine it and perhaps even vote on it before the Independence Day district work period for the Congress. If he does not have his own plan, I urge the President to support the existing congressional lockbox proposals, one of which has already passed the House with substantial momentum; 416 to 12 is not a vote to be disregarded. In spite of that, it has been disregarded by those on the other side of the aisle in the Senate.

In addition, I ask that the President reach out to his Democratic colleagues, now that he has joined the idea of building a lockbox, and a strong one, to protect Social Security and urge the Democrat Members of the Senate to support efforts to protect Social Security. This is the best way to ensure Social Security's financial integrity for this and future generations.

Again, I say that the American people are the winners when the President of the United States announces that he will support the efforts in Congress to protect all of the Social Security surplus, basically changing his position from spending \$158 billion over the next 5 years to saying that he wants to stop the raid and no longer cover shortfalls in Federal spending programs by using Social Security surpluses.

The President's Rose Garden announcement is welcome news. It is a rosy scenario, if it can be carried out.

I urge President Clinton to join us in demonstrating his commitment to Social Security protection by backing the congressional Social Security lockbox, which we have been working so carefully to bring into place, as a means of protecting Social Security taxes that people across America work day after day after day to pay. They should be entitled to look forward to the day when those taxes will come back to them in terms of Social Security retirement benefits.

ORDER FOR STAR PRINT—S. 606

Mr. ASHCROFT. Mr. President, I ask unanimous consent that a star print of S. 606, as reported by the Senate Committee on the Judiciary, be printed to correct an error.

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

LAKE OCONEE LAND EXCHANGE ACT

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 162, S. 604.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 604) to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company.

There being no objection, the Senate proceeded to consider the bill.

Mr. ASHCROFT. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 604) was considered read the third time and passed, as follows:

S. 604

*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 "Lake Oconee Land Exchange Act".

**SEC. 2. LAKE OCONEE LAND EXCHANGE.**

(a) DEFINITIONS.—In this section:

(1) DESCRIPTION OF THE BOUNDARY.—The term "description of the boundary" means the documents entitled "Description of the Boundary" dated September 6, 1996, prepared by the Forest Service and on file with the Secretary.

(2) EXCHANGE AGREEMENT.—The term "exchange agreement" means the agreement between Georgia Power Company and the Forest Service dated December 26, 1996, as amended on August 17, 1998, on file with the Secretary.

(3) GEORGIA POWER COMPANY.—The term "Georgia Power Company" means Georgia Power Company, a division of the Southern Company, a Georgia corporation, or its successors or assigns.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Simultaneously with conveyance by Georgia Power Company to the

Secretary of all right, title, and interest in and to the land described in paragraph (2), the Secretary shall—

(A) convey to Georgia Power Company all right, title, and interest in and to the land described in paragraph (3), except as provided in the exchange agreement; and

(B) make a value equalization payment of \$23,250 to Georgia Power Company.

(2) LAND TO BE CONVEYED TO THE SECRETARY.—The land described in this paragraph is the land within or near the Chattahoochee National Forest and Oconee National Forest in the State of Georgia, comprising approximately 1,175.46 acres, described in the exchange agreement and the description of the boundary.

(3) LAND TO BE CONVEYED TO GEORGIA POWER COMPANY.—The land described in this paragraph is the land in the State of Georgia, comprising approximately 1,275.80 acres, described in the exchange agreement and the description of the boundary.

(c) PARTIAL REVOCATION OF WITHDRAWALS.—

(1) IN GENERAL.—The orders issued by the Federal Energy Regulatory Commission under section 24 of the Federal Power Act (16 U.S.C. 818), authorizing Power Project Numbers 2413 and 2354, issued August 6, 1969, and October 1, 1996, respectively, are revoked insofar as the orders affect the land described in subsection (b)(3).

(2) NO ANNUAL CHARGE.—No interest conveyed to Georgia Power Company or easement right retained by Georgia Power Company under this section shall be subject to an annual charge for the purpose of compensating the United States for the use of its land for power purposes.

ORDERS FOR TUESDAY, JUNE 29, 1999

Mr. ASHCROFT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. on Tuesday, June 29. I further ask that on Tuesday, 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 for their use later in the day, and there then be a period of morning business with Senators permitted to speak for up to 10 minutes each with the following exceptions: Senator MOYNIHAN for up to 30 minutes from 10:30 to 11 a.m.; Senator GRAMS or his designee for up to 60 minutes from the hour of 11 a.m. to 12 p.m.; Senator SPECTER or his designee for up to 30 minutes beginning at 12 noon.

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

Mr. ASHCROFT. Further, I ask unanimous consent the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

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

Mr. ASHCROFT. I further ask unanimous consent that when the Senate reconvenes at 2:15 on Tuesday, there be an additional 2 hours of morning business, with Senator DASCHLE in control of the first 60 minutes and Senator LOTT or his designee in control of the second 60 minutes.

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

PROGRAM

Mr. ASHCROFT. For the information of all Senators, Tuesday, the Senate will convene at 10:30 a.m. and will be conducting a period of morning business to accommodate a number of Senators who wish to make statements and introduce legislation. The Senate is then expected to resume consideration of the pending appropriations bill. Therefore, votes are expected to occur.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ASHCROFT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:25 p.m., adjourned until Tuesday, June 29, 1999, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 28, 1999:

DEPARTMENT OF STATE

RICHARD MONROE MILES, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

MICHAEL EDWARD RANNEBERGER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

CARL SPIELVOGEL, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. VAN P. WILLIAMS, JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. LAWSON W. MAGRUDER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHNNY M. RIGGS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DANIEL G. BROWN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. MICHAEL W. ACKERMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOHN M. PICKLER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. LARRY R. JORDAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAMES T. HILL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. LARRY T. ELLIS, 0000

## IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) ALBERTO DIAZ, JR., 0000

REAR ADM. (LH) BONNIE B. POTTER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be Commander*

LAUREL A. MAY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE DENTAL CORPS AND MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

PHIL C. ALABATA, 0000  
 BRYAN J. ALSIP, 0000  
 EDWIN T. ANSELMI, 0000  
 SARAH E. ATANASOFF, 0000  
 CHRISTOPHER L. ATKINS, 0000  
 KARLA AUYEUNG, 0000  
 BRIAN S. BACAK, 0000  
 MATTHEW J. BAIR, 0000  
 JOHN B. BAK, 0000  
 ERIN L. BALDEN, 0000  
 TAMRA L. BARKER, 0000  
 MARK A. BARNHARDT, 0000  
 ANDREW M. BARR, 0000  
 ROBERT J. BAUER II, 0000  
 ROMAN S. BAUTISTA, 0000  
 CHRISTOPHER B. BEACH, 0000  
 JOHN G. BEAUMAN, JR., 0000  
 MICHAEL R. BELL, 0000  
 LINDA J. BELLAMA, 0000  
 STEVEN BENNETT, 0000  
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 PATRICIA M. KULAS, 0000  
 CYRUS S. KUMP II, 0000  
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 ROY LANGLEY, 0000  
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 JAMES F. MAGUIRE, 0000  
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 JOHN J. TIEDEKEN III, 0000  
 JOHN E. TIS, 0000  
 PAUL A. TOMCYKOSKI, 0000  
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# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 29, 1999 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JUNE 30

9:30 a.m.  
Health, Education, Labor, and Pensions  
To resume hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act, focusing on facilities.  
SD-430

Rules and Administration  
To hold oversight hearings on the operations of the Architect of the Capitol.  
SR-301

Energy and Natural Resources  
Business meeting to consider pending calendar business.  
SD-366

Appropriations  
Labor, Health and Human Services, and Education Subcommittee  
To hold hearings on issues relating to gambling addiction.  
SD-192

10 a.m.  
Finance  
To hold hearings on S. 646, to amend the Internal Revenue Code of 1986 to provide increased retirement savings opportunities; S. 741, to provide for pension reform; S. 659, to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced; and other related proposals.  
SD-215

Aging  
To hold hearings to examine the Health Care Financing Administration's implementation of their nursing home improvement initiative.  
SH-216

## Indian Affairs

To hold hearings on S. 438, to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation; to be followed by a business meeting to consider pending calendar business.  
SR-485

10:30 a.m.

Foreign Relations  
Business meeting to consider pending calendar business.  
SD-419

2 p.m.

Energy and Natural Resources  
Forests and Public Land Management Subcommittee  
To hold oversight hearings on the United States Forest Service Economic Action programs.  
SD-366

2:30 p.m.

Commerce, Science, and Transportation  
Oceans and Fisheries Subcommittee  
To hold hearings to examine coral reef and marine sanctuary issues.  
SR-253

### JULY 1

9:30 a.m.

Health, Education, Labor, and Pensions  
Employment, Safety and Training Subcommittee  
To hold oversight hearings on the proposed Work Investment Act.  
SD-430

Banking, Housing, and Urban Affairs  
Housing and Transportation Subcommittee  
To hold hearings on the Department of Housing and Urban Development's Section 8 Opt-out programs.  
SD-538

Indian Affairs  
To hold hearings to establish the American Indian Educational Foundation.  
SR-485

10 a.m.

Governmental Affairs  
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee  
To hold hearings to examine the federal food safety system.  
SD-342

## Judiciary

Business meeting to consider S. 467, to restate and improve section 7A of the Clayton Act; S. 1257, to amend statutory damages provisions of title 17, United States Code; S. 1258, to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office; S. 1259, to amend the Trademark Act of 1946 relating to dilution of famous marks; S. 1260, to make technical corrections in title 17, United States Code, and other laws; and pending nominations.  
SD-628

10:30 a.m.

Foreign Relations  
To hold hearings on the role of sanctions in United States national security policy.  
SD-419

2 p.m.

Foreign Relations  
East Asian and Pacific Affairs Subcommittee  
To hold hearings to examine United States policy towards Hong Kong.  
SD-419

## Intelligence

To hold closed hearings on pending intelligence matters.  
SH-219

### JULY 13

2 p.m.

Energy and Natural Resources  
Forests and Public Land Management Subcommittee  
To hold hearings on S. 729, to ensure that Congress and the public have the right to participate in the declaration of national monuments on federal land.  
SD-366

### JULY 14

9:30 a.m.

Indian Affairs  
Energy and Natural Resources  
To hold joint oversight hearings on the General Accounting Office report on Interior Department's trust funds reform.  
SH-216

### JULY 15

9:30 a.m.

Energy and Natural Resources  
To resume hearings on S. 161, to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority; S. 282, to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978; S. 516, to benefit consumers by promoting competition in the electric power industry; and S. 1047, to provide for a more competitive electric power industry.  
SH-216

### JULY 21

9:30 a.m.

Indian Affairs  
To hold hearings on S. 985, to amend the Indian Gaming Regulatory Act.  
SR-485

### JULY 28

9:30 a.m.

Indian Affairs  
To hold hearings on S. 979, to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes.  
SR-485

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AUGUST 4

9:30 a.m.

Indian Affairs

To hold hearings on S. 299, to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health; and S. 406, to amend the Indian Health

Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations; followed by a business meeting to consider pending calendar business.

SR-485

SEPTEMBER 28

9:30 a.m.

Veterans Affairs

To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Legion.

345 Cannon Building

Monday, June 28, 1999

# Daily Digest

## Senate

### Chamber Action

**Routine Proceedings, pages S7681–S7755**

**Measures Introduced:** Nine bills were introduced, as follows: S. 1288–1296. **Page S7717**

**Measures Reported:** Reports were made as follows: S. 1292, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000. (S. Rept. No. 106–99) **Page S7716**

**Measures Passed:**

**Lake Oconee Land Exchange Act:** Senate passed S. 604, to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company. **Page S7754**

**Agriculture Appropriations, FY2000:** Senate resumed consideration of S. 1233, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, taking action on the following amendment proposed thereto: **Pages S7696–S7705**

Pending:

Feinstein Amendment No. 737, to prohibit arbitrary limitation or conditions for the provision of services and to ensure that medical decisions are not made without the best available evidence or information. **Pages S7796–S7705**

Lott Amendment No. 1103 (to Amendment No. 737), to improve the access and choice of patients to quality, affordable health care. **Pages S7796–S7705**

A motion was entered to close further debate on Amendment No. 1103 (listed above) and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Wednesday, June 30, 1999. **Page S7697**

During consideration of this measure today, Senate also took the following action:

By 50 yeas to 37 nays (Vote No. 184), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to close further debate on the bill. **Page S7705**

**Transportation Appropriations Cloture Vote:** By 49 yeas to 40 nays (Vote No. 185), three-fifths of

those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to close further debate on the motion to proceed to the consideration of S. 1143, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000. **Pages S7705–06**

**Commerce/Justice/State Appropriations Cloture Vote:** By 49 yeas to 39 nays (Vote No. 186), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to close further debate on the motion to proceed to the consideration of S. 1217, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000. **Page S7706**

**Foreign Operations Appropriations Cloture Vote:** By 49 yeas to 41 nays (Vote No. 187), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to close further debate on the motion to proceed to the consideration of S. 1234, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000. **Pages S7706–07**

**Messages From the President:** Senate received the following message from the President of the United States:

Transmitting the report of the executive order of the implementation of the Chemical Weapons Convention and the Chemical Weapons Convention Implementation Act; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–42). **Pages S7708–09**

**Messages From the President:** **Pages S7708–09**

**Messages From the House:** **Page S7709**

**Measures Placed on Calendar:** **Page S7709**

**Communications:** **Pages S7709–12**

**Petitions:** **Pages S7712–16**

**Executive Reports of Committees:** **Pages S7716–17**

**Statements on Introduced Bills:** **Pages S7717–25**

**Additional Cosponsors:** **Pages S7725–26**

Amendments Submitted (during the adjournment): Pages S7726–37

Amendments Submitted (today): Pages S7737–52

Authority for Committees: Page S7752

Additional Statements: Pages S7752–53

Record Votes: Four record votes were taken today. (Total—187) Pages S7705–06

**Adjournment:** Senate convened at 12 noon, and adjourned at 7:25 p.m., until 10:30 a.m. on Tuesday, June 29, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S7754.)

## Committee Meetings

(Committees not listed did not meet)

### NOMINATIONS

*Committee on Armed Services:* Committee ordered favorably reported 4,657 military nominations in the Army, Navy, Marine Corps, and Air Force.

### NOMINATION

*Committee on Foreign Relations:* Committee concluded hearings on the nomination of John David Holum, of Maryland, to be Under Secretary of State for Arms Control and International Security, after the nominee, who was introduced by Senator Johnson, testified and answered questions in his own behalf.

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# House of Representatives

## Chamber Action

The House was not in session. It will next meet on Tuesday, June 29 at 12:30 p.m. for morning-hour debates.

## Committee Meetings

### MILITARY CONSTRUCTION APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Military Construction approved for full Committee action the Military Construction appropriations for fiscal year 2000.

### WARNER CREEK TIMBER SALE

*Committee on Resources:* Task Force on Warner Creek Timber Sale and Related Matters met in executive session to continue to discuss the Warner Creek Timber Sale and related matters.

## Joint Meetings

### TRAFFICKING OF HUMAN BEINGS

*Commission on Security and Cooperation in Europe:* Commission concluded hearings on issues relating to the trafficking of women and children in Europe and the United States, focusing on the causes and extent of the problem in OSCE participating states, the situation in Kosovo, and the involvement of international criminal networks and the efforts by the United States, foreign governments and NGO's to address the issue, after receiving testimony from Anita Botti, Deputy Director/Senior Advisor on Trafficking, Of-

fice of the Senior Coordinator for International Women's Issues, Department of State; Steven Galster, Global Survival Network, Louise Shelley, American University School of International Service, Wendy Young, International Rescue Committee, and Laura Lederer, Harvard University John F. Kennedy School of Government, all of Washington, D.C.

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### NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D676)

H.R. 435, to make miscellaneous and technical changes to various trade laws. Signed June 25, 1999. (P.L. 106–36)

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### COMMITTEE MEETINGS FOR TUESDAY, JUNE 29, 1999

(Committee meetings are open unless otherwise indicated)

#### Senate

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology, and Space, to hold hearings on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration, United States Fire Administration, and Earthquake Hazards Reduction programs, 2:30 p.m., SR–253.

*Committee on Energy and Natural Resources:* to hold hearings on S. 161, to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority; S. 282, to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210

of the Public Utility Regulatory Policies Act of 1978; S. 516, to benefit consumers by promoting competition in the electric power industry; and S. 1047, to provide for a more competitive electric power industry, 9:30 a.m., SH-216.

Subcommittee on Forests and Public Land Management, to hold oversight hearings on fire preparedness by the Bureau of Land Management and the Forest Service on Federal lands, 2:30 p.m., SD-366.

*Committee on Environment and Public Works*: business meeting to consider S. 1100, to amend the Endangered Species Act of 1973 to provide that the designation of critical habitat for endangered and threatened species be required as part of the development of recovery plans for those species; the nomination of Timothy Fields, Jr., of Virginia, to be Assistant Administrator, Office of Solid Waste, Environmental Protection Agency, and other pending calendar business, 10 a.m., SD-406.

*Committee on Finance*: to hold hearings on the nomination of Stuart E. Eizenstat, of Maryland, to be Deputy Secretary of the Treasury; the nomination of Jeffrey Rush, Jr., of Virginia, to be Inspector General, Department of the Treasury; and the nomination of Lewis Andrew Sachs, of Connecticut, to be an Assistant Secretary of the Treasury for Financial Markets, 10 a.m., SD-215.

*Committee on Health, Education, Labor, and Pensions*: to resume hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act, focusing on arts education and magnet schools, 9:30 a.m., SD-430.

### House

*Committee on Appropriations*, Subcommittee on Interior, to mark up appropriations for fiscal year 2000, 10 a.m., B308 Capitol.

*Committee on the Budget*, Social Security Task Force, hearing on Review of Social Security Reform Plans, 10 a.m., 210 Cannon.

*Committee on Commerce*, Subcommittee on Oversight and Investigations, hearing on Worker Safety at DOE Nuclear Facilities, 11 a.m., 2322 Rayburn.

Subcommittee on Telecommunications, Trade, and Consumer Protection, hearing on H.R. 1832, Muhammad Ali Boxing Reform Act, 11 a.m., 2123 Rayburn.

*Committee on Education and the Workforce*, Subcommittee on Employer-Employee Relations, hearing on Enhancing Retirement Security, including discussion of H.R. 1102, Comprehensive Retirement Security and Pension Reform Act, 11 a.m., 2175 Rayburn.

*Committee on Government Reform*, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, hearing on "Defense Offsets: Are They Taking Away Our Jobs?" 10 a.m., 2154 Rayburn.

Subcommittee on Government Management, Information, and Technology, hearing on H.R. 1827, Government Waste Corrections Act of 1999, 2 p.m., 2247 Rayburn.

*Committee on House Administration*, to continue hearings on Campaign Reform, 2 p.m., 1310 Longworth.

*Committee on International Relations*, Subcommittee on International Economic Policy and Trade, hearing on "Y2K, Customs Flows and Global Trade: Are We Prepared to Meet the Challenges of the New Millennium?" 2 p.m., 2200 Rayburn.

Subcommittee on International Operations and Human Rights, hearing on U.S. Policy Toward Victims of Torture, 1:30 p.m., 2172 Rayburn.

*Committee on the Judiciary*, Subcommittee on Commercial and Administrative Law, hearing on H.R. 881, Regulatory Fair Warning Act of 1999, 10 a.m., 2237 Rayburn.

*Committee on Resources*, Subcommittee on Fisheries Conservation, and Wildlife and Oceans, oversight hearing on Marine Mammal Protection Act, 2 p.m., 1334 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on a GAO Report entitled: "A Cohesive Strategy Is Needed to Address Catastrophic Wildlife Threats," 2 p.m., 1324 Longworth.

Subcommittee on National Parks and Public Lands, oversight hearing on Dealing with Occurrence of the Hantavirus Disease and associated health risks to Park Visitors on the Channel Islands National Park in California, 10 a.m., 1334 Longworth.

*Committee on Rules*, to consider the following: H.R. 1218, Child Custody Protection Act; H.R. 66, to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance; H.R. 791, Star-Spangled Banner Historic Trail Study Act of 1999; and H.R. 592, World War II Veterans Park at Great Kills, 1 p.m., H-313 Capitol.

*Committee on Science*, hearing on the Rudman Report on Security Problems at the Department of Energy, 2 p.m., 2318 Rayburn.

Subcommittee on Space and Aeronautics, the Subcommittee on Military Procurement and the Subcommittee on Military Research and Development of the Committee on Armed Services, joint hearing on Range Modernization, Part II, 10 a.m., 2318 Rayburn.

*Committee on Transportation and Infrastructure*, Subcommittee on Coast Guard and Maritime Transportation, oversight hearing on the requirement for double hulls under the Oil Pollution Act of 1990, 10 a.m., 2167 Rayburn.

*Committee on Ways and Means*, Subcommittee on Human Resources, hearing on Reducing Nonmarital Births, 10 a.m., B-318 Rayburn.

*Permanent Select Committee on Intelligence*, executive, briefing on Kosova Update, 3 p.m., H-405 Capitol.

### Joint Meetings

*Conference*: meeting of conferees on H.R. 775, to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, 9:30 a.m., SC-5, Capitol.

*Next Meeting of the SENATE*  
10:30 a.m., Tuesday, June 29

*Next Meeting of the HOUSE OF REPRESENTATIVES*  
12:30 p.m., Tuesday, June 29

Senate Chamber

**Program for Tuesday:** After the recognition of three Senators for speeches, and the transaction of any morning business (not to extend beyond 12:30 p.m.), Senate will recess until 2:15 p.m. for their respective party conferences; following which, Senate will continue the transaction of morning business for an additional two hours.

Also, Senate expects to resume consideration of S. 1233, Agriculture Appropriations.

House Chamber

**Program for Tuesday:** Consideration of 6 Suspensions:

(1) H.R. 2280, Veterans Benefits Improvement Act of 1999;

(2) H.J. Res. 34, Congratulating and Commending the Veterans of Foreign Wars;

(3) H.R. 1568, Veterans Entrepreneurship and Small Business Development Act of 1999;

(4) H. Con. Res. 94—Recognizing the Public Need for Reconciliation and Healing, Urging the United States to Unite in Seeking God, and Recommending that the Nation's Leaders Call for Days of Prayer;

(5) H.R. 2014—To Prohibit a State from Imposing a Discriminatory Commuter Tax on Nonresidents; and

(6) H. Res. \_\_\_\_\_—Expressing the Sense of the House of Representatives Condemning the Acts of Arson at Three Sacramento, California, Area Synagogues.



## Congressional Record

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