SENATE—*Friday, July 28, 1995*

(Legislative day of Monday, July 10, 1995)

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

PRAYER

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

Sovereign God, our help in all the ups and downs of life, all the triumphs and defeats of political life, and all the changes and challenges of leadership, You are our Lord in all seasons and for all reasons. We can come to You when life makes us glad or when it makes us sad. There is no place or circumstance beyond Your control. Wherever we go You are there waiting for us. You already are at work with people before we encounter them, You prepare solutions for our complexities, and You are ready to help us to resolve conflicts even before we ask You. And so, we claim Your promise given through Jeremiah, "Call on Me, and I will answer you, and show great and mighty things you do not know."—Jeremiah 33:3.

Lord, we want our work this day and the end of this workweek to be done in such a way that You will be able to say, "Well done, good and faithful servant." Our only goal is to please You in what we say and accomplish. Bless the Senators in the decisions they must make and the votes they will cast. Give them, and all of us who work with them, Your strength to endure and Your courage to triumph in things great and small that we attempt for the good of all. In Your holy name. Amen.

CONGRESSIONAL GIFT REFORM ACT OF 1995

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1061, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1061) to provide for congressional gift reform.

The Senate resumed consideration of the bill.

Pending:

McCain modified amendment No. 1872, in the nature of a substitute.

Murkowski amendment No. 1874 (to amendment No. 1872), to permit reimbursement for travel and lodging at charitable political events.

Lott amendment No. 1875 (to amendment No. 1872), to change the maximum total value of gifts that can be accepted from a single source in 1 year from $50 to $100.

AMENDMENT NO. 1874

The PRESIDENT pro tempore. Under the previous order, there will now be 10 minutes of debate on the Murkowski amendment No. 1874.

Mr. LEVIN addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, the two amendments that we are going to be voting on early this morning really go to the heart of the efforts that we are making to reform gifts. And those issues are the recreational trips and the meals and the tickets which are given to Members of this body.

So while we have narrowed the differences significantly—and we have—we still are confronted with the really principal issues which have brought us to this point; and that is the recreational travel, the golf outings, the ski trips, and the tennis trips that are provided as so-called charitable travel but which is a significant recreational benefit to us. As a matter of fact, this travel is defined as substantially recreation. That is the first amendment that we will be voting on. It is the Murkowski amendment, which will be to allow that kind of recreational travel to Members of this body to be reimbursed by private interests for that travel.

What the public has seen and read and heard about are these trips that we are offered also benefit a charity. There are two beneficiaries of these trips. A charity benefits when we show up, and we benefit by being given a couple of days and nights and fancy lodging, and being given fancy meals and being paid the transportation to get there. That is a substantial gift to Members. Yes, a charity also benefits. But the price that we pay to benefit the charity is the diminution, the reduction of the public confidence in this institution by the benefit that is received by Members from this recreational travel, which is significant. It is like a paid vacation that we are given at the same time there is a charitable contribution that is also made by the corporate sponsors. And we should give it up. We simply should give it up. It has reduced public confidence in this institution.

We have transcripts of television shows that are available to Members to read if they want to see what this looks like to the general public.

So I hope we will defeat the Murkowski amendment, which is the first amendment that we will be voting on this morning.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. MCCAIN). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, good morning. My colleagues, good morning.

Mr. President, the amendment that we are going to be voting on very shortly provides the same rules for transportation and lodging in connection with charitable events as the bill provides for political events. That is all it does. It just conforms the two—political vis-a-vis charitable events.

Mr. President, much of this debate has been about public perception, that somehow we in Washington are being bought and sold by lobbyists, PAC's, and so forth; if we spend a weekend at a charitable event which includes lobbyists, that somehow we become polluted with corruption, or so goes the myth. There have been television programs directed at this. But at the same time, there is nothing wrong with Members of this body receiving lobbyist money paying for Senators' meals, Senators' lodging, Senators' transportation at a political fundraiser in Hollywood, in Florida, and you name it.

I ask, Mr. President, are we going to sell that bill of malarkey to the American public? I do not think so. It is OK for a lobbyist's money to pay us for travel to fundraisers and PAC's but it is not OK for lobbyist money to be used for travel to an event that will benefit breast cancer screening or poor children in need of medical attention.

Mr. President, my amendment simply provides that Senators would be permitted to be privately reimbursed for the costs of lodging and transportation in connection with a charitable fundraising event, only—and I repeat "only"—if the Senate Select Committee on Ethics determines that participating in the charity event is in the interest of the Senate and in the interest of the United States.

I think we have a clear choice. Do we want to establish the same lodging and transportation rules for charitable fundraisers as we have for political fundraising, or do we want to make it harder, harder to raise money for worthy charities?

The inconsistency here is an obvious one. The rule says as proposed in the compromise that there will be no reimbursement for charity events if it is associated with recreation. Yet, make no mistake about it, Mr. President, the loophole is this: You can have a political fundraiser for yourself, reimburse Members for travel to that political

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

fundraiser and you can have a charity event, too, and have the proceeds go to the charity.

Let us not kid ourselves. What is the source of funds for these events? The source of funds is the same groups, the politicians, political action committees, the PAC's, and so forth.

Now, I had intended to offer another amendment which would have required Members to pay out of their own pocket for travel and lodging for political events like they propose now for charity events. I decided not to pursue that because in reality that belongs in the campaign reform effort which is going to be underway at some point in time, and I intend to pursue it at that time.

We are not kidding ourselves. We are not kidding the American public. We are simply involved in a bit of a charade here. A significant portion of it is worthwhile. This reform is needed. As far as eliminating reimbursement for travel and lodging associated with charitable events and still allowing for political events when the funds came from the same source is the hypocrisy the Senator from Alaska wants to point out and wants to remind all Members as they look at how they are going to vote on the Murkowski amendment.

I encourage them to recognize that significant difference. Members go out, establish a political event, reimburse other Members for travel and transportation. The source of the funds comes from the PAC's and the lobbyists. And they can put on a charity event with it. Perhaps that is what the membership wants. But I suggest the American public is going to question whether we have gone all the way here or whether we have left a loophole.

I thank the Chair, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired. The Senator from Michigan has 2 minutes remaining.

Mr. LEVIN. I yield 1 minute to my friend from Minnesota.

Mr. WELLSTONE. I thank the Senator from Michigan.

Mr. President, I want my colleagues to know we went through this last night in, I think, rather extensive debate. A Senator certainly can attend charitable events, no question about it. The issue is the recreational travel. What this vote is about is just one issue, and the issue is this: It does not serve this institution well, it does not serve any of us as individual Senators well, when lobbyists pay for Senators and their spouses or their family to go on weekend golf, tennis, skiing, or fishing trips. It is inappropriate. We ought not to be taking these gifts. People in the country do not think it is right. We should not think it is right, and I certainly hope that this amendment by the Senator from Alaska will be voted down.

The PRESIDING OFFICER. The Senator from Michigan has 1 minute 2 seconds remaining.

Mr. LEVIN. I will reserve that.

Is there any time remaining on the other side?

The PRESIDING OFFICER. There is no time remaining on the other side. The Senator from Michigan is recognized.

Mr. LEVIN. Let me conclude by saying this is one of the two issues that has brought us to this point. This recreational travel is a significant gift to us. Yes, there is also a benefit to the charity, but it is the gift to us which is the issue under our gift rules.

If we are going to significantly change the way we do business, this is one of the two areas where we must make a change, the so-called recreational travel. The charities have great appeals. They should be supported; they can be supported, but they must not be supported in a way which undermines public confidence in this institution. And that is the issue which we will be voting on with the Murkowski amendment. It is the public confidence in this institution, the gifts which we get, which is the issue.

I hope this amendment will be defeated. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, under the previous order, the question occurs now on agreeing to amendment No. 1874 offered by the Senator from Alaska [Mr. MURKOWSKI]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

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

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—39

Ashcroft	Dole	Johnston
Bennett	Dorgan	Lott
Bond	Gorton	Mack
Breaux	Gramm	McConnell
Bumpers	Grams	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Nunn
Chafee	Heflin	Packwood
Coats	Helms	Pryor
Cochran	Hollings	Roth
Coverdell	Hutchison	Simpson
D'Amato	Inhofe	Smith
Dodd	Jeffords	Thurmond

NAYS—60

Abraham	Byrd	Feingold
Akaka	Cohen	Feinstein
Baucus	Conrad	Ford
Biden	Craig	Frist
Bingaman	Daschle	Glenn
Boxer	DeWine	Graham
Bradley	Domenici	Grassley
Brown	Exon	Harkin
Bryan	Faircloth	Hatfield
Inouye	Lieberman	Rockefeller
Kassebaum	Lugar	Santorum
Kempthorne	McCain	Sarbanes
Kennedy	Mikulski	Shelby
Kerrey	Moseley-Braun	Simon
Kerry	Moynihan	Snowe
Kohl	Murray	Specter
Kyl	Pell	Thomas
Lautenberg	Pressler	Thompson
Leahy	Reid	Warner
Levin	Robb	Wellstone

NOT VOTING—1

Stevens

So the amendment (No. 1874) was rejected.

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

Mr. LAUTENBERG. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1875

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment numbered 1875 offered by the Senator from Mississippi.

Debate on the amendment is limited to 10 minutes equally divided.

Mr. MCCAIN. Mr. President, I yield 1 minute to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Mr. President, we have come this far on gift reform, and we should not turn back now on one of the central issues which are the tickets and the meals.

Mr. President, we have now made a significant decision in the area of gifts. We have come a significant way. Now we must not turn back. We really must address the question of the tickets and the meals.

We cannot be bought for $100, $50, or $20. I do not think we could be bought for $1 million.

If we will give up the tickets and the meals, the way we have now given up the recreational travel, we can contribute something. We can give something of immeasurable value to this democracy of ours. We can add to public confidence in our democratic institutions.

This public confidence has been eroded. We can help to restore it, if we will now take this step which basically addresses the tickets and the meals.

The executive branch has a $20 gift rule and a $50 total that anyone can give. This would follow the executive branch rule. If they can live under it, I believe we also can live under it. I hope this amendment is defeated.

Mr. LOTT. Mr. President, in support of the amendment, I yield our 5 minutes to the Senator from Louisiana, Senator BREAUX, so that he can make a statement on this, in support of this amendment.

We will vote to see if we have any vestiges of self-respect left.

Mr. BREAUX. I yield myself 3 minutes of my 5 minutes.

Mr. President, the issue before the Senate, I think, is very, very clear. Mr. President, and my colleagues, this legislation, make no bones about it,

makes major, dramatic changes in how we are going to conduct the daily lives of Members of this body.

Essentially, today, meals are exempt from any kind of a gift ban or limitation. We all have meals and lunches with our constituents and with people who do business here in Washington. Essentially, those events are exempt from any ban today.

This legislation, for the first time, says meals are going to be included. If that meal costs $21, Members will find themselves before the Ethics Committee, answering a charge that they have violated this rule.

I say to my colleagues that is not sound policy. The Ethics Committee has a lot of work to do. They should not be going over lunch tabs and dinner tickets, to make sure that the tab, the tax, and the tip, does not somehow add up to $21.

That is what the McCain-Wellstone bill provides for. I suggest that we, I think, are smarter than that. Our constituents are smarter than that.

Every year in my State of Louisiana, the Shreveport Chamber of Commerce comes up. They have a luncheon. They invite Senator JOHNSTON. They have a dinner. They invite myself. Next year, they will reverse the order. That meal is probably going to cost more than $20. They are having that meal for us to talk about things of interest to that city and my State.

Every year the Louisiana Municipal Association comes up and takes us out to dinner. That meal is going to cost more than $20.

I suggest to the Members of this body, as it has been said so many times before, we are not going to be bought for $21. We have to be reasonable. We have to be practical. If we vote like our constituents want us to vote, a $21 meal is not going to make the difference.

Our legislation simply says $50 for a gift limitation. You cannot take it when it adds up to over $100 in a year. Therefore, a meal that is $50—a lunch, a dinner, anything under that—is not prohibited. If you add $51, that is prohibited. The maximum would be $100 in a year.

Some say Members go to dinner every night for 365 days and they could give you $18,000 a year. If anybody goes to dinner with the same person every night for 365 some days, I suggest they are idiots and should not be in the Senate in the first place.

Under their legislation, Members could go every night for $20 and spend $7,350. Is that all right? Are we playing games with our self-respect, our ability to know what is right and what is wrong? And more importantly, to allow our constituents to know what is right and what is wrong.

I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, recently I was along with some of my colleagues and was invited to hear the President of France at a one-table luncheon at the French Embassy on the subject of Bosnia principally; to the British Embassy, to hear Douglas Hurd, the Foreign Minister of Britain, speak about foreign matters in general. Both were, I thought, very important dinners. Both would clearly have exceeded the $20. Would this be prohibited under the $20 rule?

Mr. BREAUX. Any gift Members receive that is over $20, that includes a meal, would be prohibited under the legislation.

I yield to the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to take 1 minute to get the attention of my colleagues on an argument that was made last night, and hopefully not many were here.

That was this suggestion that my friend from Louisiana made that a Senator could go out every night for a whole year and rack up $18,000 in bills under this amendment. That is technically true. Of course, as the Senator from Louisiana pointed out, it is technically true that under the alternative Members could rack up $7,000 in bills.

The point I want Members to know is that anybody who did that would have a serious case before the Ethics Committee. The fact that it might not be a technical violation of the rule does not mean that it is proper conduct. It would be clearly improper conduct.

Some of the major cases that we have had here in the Senate in the last few years have not been technical violations of the rules. They still have been major cases. That was the case in the Keating case. It is the case with some of the charges against the Senator from Oregon—not technical violations of the rules, but still a very serious case.

I want Members to know that anybody who tried to exploit this rule, in this way, would be in very, very, serious trouble.

The PRESIDING OFFICER. The time of the Senator has expired. The other side has 3 minutes remaining.

Mr. MCCAIN. I yield 1 minute to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, a very serious mistake of fact has been made on the floor about the bill. The last two speakers said under our bill you could take up to $7,000 a year. That is absolutely false. Under our bill, the most you could take from one individual is $50, the executive rule. Under the amendment here, it would be at least $18,500 for, obviously, a wrongdoer. That is a fact.

The difference is that the current McCain provision has an aggregate limit and the provision provided by the other side on this has no aggregate. So one person, several times a day, could give up to $50 a day and that does not count. And there is no aggregation. That is a fact. That is exactly the difference between the two, and any other suggestion means somebody has not read the difference between the amendments.

Several Senators addressed the Chair.

Mr. MCCAIN. I yield 1 minute to the Senator from Minnesota, Senator WELLSTONE.

Mr. WELLSTONE. Mr. President, if I could just get the attention of my colleagues.

Mr. President, let me just emphasize what the Senator from Wisconsin said. Fact No. 1 is that people in the country just think it is inappropriate when it comes to the meals and the tickets. They think we should let go of it. And we should, if we want to restore confidence.

Fact No. 2, this amendment says that you can go out for a meal or you can take a ticket or whatever, and as long as it is under $50 you can keep receiving the same gift from a lobbyist in perpetuity. There is no limit. There is no $100 limit.

Senators, you cannot tell people we are making a reform, you cannot tell people we are putting an end to this practice, with this kind of huge loophole. It is not credible. It will not work. This amendment is deeply flawed and is not a reform.

Mr. LOTT. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 20 seconds.

Mr. MCCAIN. Mr. President, this is really all about, this entire legislation is about establishing confidence. I do not think there is any doubt the American people do not believe we live like they do. I do not think there is any doubt that the confidence and esteem in which we are held is not at the level that we want it to be.

I believe if this amendment is agreed to, the perception will be that $50 a day, unrecorded, unaggregated, will indeed be a privilege that most Americans do not enjoy.

It is not really much more complicated than that. As the Senator from Michigan pointed out, can Senators be bought for $20 or $50 or $100 or $200? That is not the argument here. The argument here is whether we will live like the rest of the American people do, and that, for most citizens, is not the ability to receive as much as $50 a day in some kinds of benefits.

We believe the original legislation is far more appropriate. There are those who would argue for zero dollars. I believe what we have crafted is the appropriate method and I do not believe this is about buying and selling of Members of Congress.

Mr. President, I yield the remainder of my time.

VOTE ON AMENDMENT NO. 1875

The PRESIDING OFFICER. All time has expired. The question is on amendment 1875, offered by the Senator from Mississippi.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced, yeas 54, nays 46, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—54

Ashcroft	Faircloth	Lott
Bennett	Gorton	Lugar
Bond	Gramm	Mack
Breaux	Grams	McConnell
Brown	Grassley	Mikulski
Bryan	Gregg	Murkowski
Bumpers	Harkin	Nickles
Burns	Hatch	Nunn
Campbell	Heflin	Packwood
Chafee	Helms	Pell
Coats	Hollings	Pryor
Cochran	Hutchison	Reid
Coverdell	Inhofe	Rockefeller
Craig	Inouye	Roth
D'Amato	Johnston	Shelby
Dodd	Kassebaum	Smith
Dole	Kempthorne	Stevens
Domenici	Kerrey	Thurmond

NAYS—46

Abraham	Ford	Moynihan
Akaka	Frist	Murray
Baucus	Glenn	Pressler
Biden	Graham	Robb
Bingaman	Hatfield	Santorum
Boxer	Jeffords	Sarbanes
Bradley	Kennedy	Simon
Byrd	Kerry	Simpson
Cohen	Kohl	Snowe
Conrad	Kyl	Specter
Daschle	Lautenberg	Thomas
DeWine	Leahy	Thompson
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Feingold	McCain	
Feinstein	Moseley-Braun	

So the amendment (No. 1875) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Senator BYRD, is recognized to offer an amendment on which there shall be 45 minutes of debate.

Will the Senate please be in order.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, my time will not begin to run until I offer the amendment, and I insist upon order in the Senate.

The PRESIDING OFFICER. The Senator is correct. May we have order. Senators will please take their conversations to the Cloakroom. May we have order in the Senate.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I know order when I see order in the Senate, and we do not have it.

The PRESIDING OFFICER. The Senator is correct. There is no better way to describe it. We know it when we see it.

May we have order, please. The Senators on my right, find another place to converse. The Senators over here, please find another place.

The Senator from West Virginia.

Mr. BYRD. Mr. President, the gavel has only been broken once, and it was replaced with a new gavel. And it might be well perhaps even to break it again. When the Chair calls for order, the Chair should be respected. I know we are all prone to talk a little bit. We like to see our colleagues during the rollcalls. I do the same thing. But if the Chair will crack that gavel and let us know that the Chair wants order, he should have it.

I thank the Chair, and I thank my colleagues.

(Mr. COVERDELL assumed the chair).

Mr. BYRD. Mr. President, the bill before us today, S. 1061, is designed to strengthen the standing rules of the Senate regarding the acceptance of gifts by Members and staff. Accordingly, it is meant to confront the public's perception that Members of the Senate can somehow be influenced for the price of a lunch. That is really pretty silly, but nevertheless that may be the perception. I, for one, do not believe that to be true. But perception, as we all know, is sometimes overpowering.

Indeed, Marie Antoinette may never have actually said, "Let them eat cake," but the fact remains that, in 1793, the people of Paris believed that Marie Antoinette said, "Let them eat cake." So, let us not be fooled. Perception matters, and, whether we like it or not, it must be dealt with.

It is to that end, the righting of public perception, that I am offering this amendment. Quite simply, my amendment states that it is the sense of the Senate that the Judicial Conference of the United States—as the Senate is doing in relation to itself in the pending measure—should review and reevaluate its gift rules, including the acceptance of travel and travel-related expenses, and that those regulations should cover all judicial branch employees, including members of the Supreme Court.

Like the legislative branch, the judicial branch of Government cannot afford to be seen in the eyes of the public as anything less than impartial and unbiased. The great tenet of our judicial system, that all Americans enjoy "equal justice under the law," cannot be brought into question if we are to maintain a society based on the rule of law. Therefore, if it is important for the men and women who make the laws to be above reproach—and it is important—then it only makes sense that it is equally important for the men and women who interpret those laws to be similarly above reproach.

In truth, one could argue that it is even more important for the judiciary to undertake a reevaluation and strengthening of its rules since the very individuals addressed in this amendment are people who, once confirmed by the Senate, retain lifetime tenure. Federal judges do not stand for reelection every 2 years or every 6 years as do Members of the House and Senate. On the contrary, unless they are impeached in the House and convicted in the Senate, Federal judges may hold their positions for life, health permitting. Their behavior and their moral authority as adjudicators of great issues are not subject to a public vote of confidence.

Mr. President, public acceptance and support of the decisions of our courts depends entirely on an independent and impartial judiciary. The decisions of the Federal courts must not be tarnished by even the slightest hint of impropriety, because the men and women who sit in judgment are charged with deciding the most momentous questions—questions that go to the very heart of our liberties. They decide questions involving freedom of speech and freedom of religion under the first amendment. They protect our constitutional rights to due process, our rights of privacy, and our rights to the pursuit of happiness in a free and open society. And they adjudicate controversies, the impact of which may mean millions or even billions of dollars to the individuals and corporations involved. Because of that authority and extraordinary power, the judicial branch, more so than even the other two branches of government, must hold and retain the utmost confidence of the American people.

Unfortunately, Mr. President, there have been reports that some members of our Federal courts have availed themselves of trips sponsored and paid for by a corporation that was involved in litigation in those courts. I am going to read now from a March 5, 1995, newspaper story that appeared in the Minneapolis Star Tribune concerning this matter. And for the benefit of my colleagues, I have had placed on every Senator's desk a copy of this news article. I urge Senators to read the article and they will understand the importance of my amendment.

Mr. President, the Minneapolis Star Tribune article was written by Sharon Schmickle and Tom Hamburger.

The headline is: "West and the Supreme Court; Members accepted gifts and perks while acting on appeals worth millions to Minnesota firm."

And it reads as follows:

"Equal Justice Under Law." These words, chiseled above the huge bronze doors of the

Supreme Court, promise that its justices will be impartial.

Yet some parties who asked the court to review their claims against West Publishing Co. now wonder if they received equal treatment. The reason: Since 1983, West has treated seven Supreme Court justices to luxurious trips at posh resorts or hotels.

None of them saw the trips as reason to disqualify themselves from considering whether to hear five cases involving their host. In each of the five instances, the justices declined to review a lower court's decision, leaving intact a decision in favor of West.

The odds already were against West's opponents, because the high court each year agrees to hear fewer than 200 of the 5,000 or so requests for review.

Two of the West cases involved key copyright issues. And two cases were placed on lists indicating they were actively discussed at the justices' weekly conference.

All justices refused interviews, but two—Antonin Scalia and Lewis Powell, who's now retired—said in written responses that they saw nothing wrong with accepting expense-paid trips to attend meetings for what they regard as a worthy purpose. "That company [West] has been of great importance to the legal profession and to legal scholars," Powell wrote in response to the Star Tribune's inquiry.

Here's a review of the justices' trips and the West-related cases the Supreme Court considered:

1983

Byron White set the pattern for other justices. He accepted an invitation to serve on a committee to select the winner of the Edward J. Devitt Distinguished Service to Justice Award, a prize sponsored by West Publishing Co. The other committee members were Devitt and Judge Gerald Tjoflat of the 11th Circuit Court of Appeals. Each committee member was to serve for two years.

The committee could have reviewed candidates in St. Paul, where Devitt lived, or on the East Coast, where White and Tjoflat worked. Instead, they conducted their February meeting at Marriott's Rancho Las Palmas in Palm Springs, Calif. It's an appealing place—a four-star resort with tennis courts and 27 holes of golf—and West picked up the tab. The trip gave White, a former All-America halfback, a chance to have a reunion with his old football coach, Johnny (Blood) McNally, who lived nearby. Spouses were invited.

West's CEO—

Chief executive officer—

Dwight Opperman, also attended the retreat, although he did not sit in on selection-committee meetings.

1984

The group considered going to Florida for its second meeting. But after consulting White, Devitt wrote to Opperman—

The CEO for West Publishing Co.—

"He said his wife was not too enthused about Florida. We discussed San Diego, but I pointed out to him that that place is not a warm spot in January or February."

California was selected. "Dwight Opperman—

West's CEO—

has made a reservation for the 1984 meeting at Marriott's Las Palmas Hotel in Palm Springs (same as last year)," Devitt wrote to White. In the same letter, he said, "Dwight wants to have Johnny Blood McNally and his wife join us for recreation as before."

McNally, a graduate of St. John's in Collegeville, Minn., coached White when he played for the Pittsburgh Steelers. Devitt wrote McNally, inviting him and his wife to join the group for "social affairs."

A couple of weeks after the trip, paid for by West, White wrote to Devitt: "As usual, it was a pleasure to be with you even if your golf was intolerably good."

Another Supreme Court justice also benefited that year. Chief Justice Warren Burger was chosen to receive a special award from the Devitt committee. He donated his $10,000 prize to an organization that promotes interest in the law.

Lewis Powell succeeded White on the Devitt panel. "Caneel Bay is a place my wife Jo and I always have hoped to visit," Powell wrote in a 1984 letter to Devitt.

Opperman—

West Publishing Co.'s CEO—

began scheduling a fall meeting at the exclusive resort on St. John in the Virgin Islands.

Within weeks of the suggestion, Opperman wrote to the justice, saying the meeting would take place at Caneel Bay. He promised to send resort brochures and invited the Powells to stay overnight in Miami the day before the committee was to meet. The letter reminded Powell: "The Devitt Committee travels first class, of course." And it said, "I will send you a check for the air fares right away and will reimburse you for incidental expenses as you advise me."

After the trip, Powell wrote to Devitt, sending a copy to Opperman, suggesting the next meeting be held at the Breakers Hotel in Palm Beach, Fla. He said it is "on the water, superior facilities, and affording many interesting things to do and places to see—particularly for our ladies."

1985

Back in Washington, Powell and White received a list of cases that included the name "West Publishing Co." during their closed-door conference meetings at the Supreme Court.

Patrick Beary, who ran a one-man law office in Queens, N.Y., had decided to press a libel complaint against West to the nation's highest court. Beary wrote his own briefs for the case that had been thrown out by judges in lower courts. A federal appeals panel ruled that West had accurately published a court decision involving Beary and that such activity was protected by law. Beary claimed his libel case raised constitutional questions requiring the high court's review.

Beary's petition was placed on the list of requests the justices decided to discuss, suggesting that at least one justice wanted to consider it. However, it was rejected for reasons that aren't known because the court's conferences are secret.

At the time, Beary understood the rejection. Now that he knows about the trips, he's not so sure. "The justices who went on these trips may have swayed their fellows on the court not to hear the case, you know. I am entitled to my day in court and I didn't get it," he said.

1986

Three months after the court rejected Beary's petition, it was time for Powell and his wife to head to the next Devitt committee meeting, at the Breakers Hotel in Palm Beach, a hotel where double-occupancy rooms currently go for $290 to $455. They joined the Devitts, Ninth Circuit Judge James Browning and two West executives and their wives.

After the January meeting, Powell wrote Opperman [West's CEO]: "It was obvious that Jo and I enjoyed the gathering last week of the Devitt Award Committee group." He went on to praise the work of the committee, then added, "I was most favorably impressed by [West vice president] Gerry Cafesjian." In June, Powell wrote Devitt telling how much he enjoyed photos taken by Cafesjian and mailed to him after the trip. "We had several chuckles and the pictures brought back the warmest memories," the justice wrote.

Less than three weeks later, West's name again surfaced before the court.

West had resisted paying more than $160,000 in back taxes, interest and penalties that the city of Phoenix was trying to collect. It was a "business-privilege" tax that the city routinely imposed on business activity conducted within its limits. A West employee assigned to represent the company in Arizona worked out of his Phoenix home, seeking orders and answering questions about West's products. West argued that most of its business in Arizona was conducted by direct mail and that it did not actually operate an office in the city.

An Arizona appeals court agreed with West and the Supreme Court declined to hear the case. Only Justice Sandra Day O'Connor, an Arizona native, removed herself from the vote on the city's petition.

A few weeks later, Powell and White received an unexpected invitation from West. Although their two-year terms on the Devitt committee had expired, Opperman invited the justices to attend a special "advisory committee meeting."

Through an exchange of letters, they decided to meet in January at the Ritz-Carlton in Laguna Niguel, Calif. The resort, which sites on a 200-foot bluff overlooking the Pacific Ocean, has an 18-hole golf course.

A handwritten note by Devitt indicates that during the Saturday-through-Tuesday gathering, only Monday morning was devoted to committee meetings. The rest of the schedule listed "free" time, golf and dining.

1987

On Jan. 23, only days before Powell and White departed for the California resort, the court met to consider another request that it hear a case against West. It is a case that has meant more to West than any other in recent history.

The dispute involved Mead Data Central Inc., an Ohio company that had jumped into electronic publishing and threatened West's standing as a leading legal publisher. The court opinions in Mead's computerized databases referred to page numbers in West's law books. West had gone to court claiming copyright infringement and a federal judge in Minnesota had ordered Mead to stop using the numbers until the lawsuit was settled. Though preliminary, the order signaled that West's chances of winning the dispute were good.

After losing an appeal in the Eighth Circuit, Mead turned to the high court. For West and Mead, millions of dollars were riding on the decision. But the potential impact reached further. If the court decided to hear the case, it also could lay the groundwork for other publishers who were rushing into electronics.

Neither White nor Powell disqualified himself from participating in the decision, though Powell apparently thought about it. The papers of the late Justice Thurgood Marshall, on file at the Library of Congress, show that Powell apparently considered disqualifying himself, telling the clerk of the court in a letter: "Following discussion of this case at Conference today, I concluded it

was unnecessary for me to remain 'out'. Therefore please disregard my letter to you of January 22."

On Jan. 27, the court refused to hear Mead's appeal and ultimately the companies negotiated a secret settlement, reportedly requiring Mead to pay fees to West.

One week after that decision, Powell and White joined Oppeman, another West executive and former committee members for the "advisory" session at the California resort. And as they departed, Justice William Brennan, who had also participated in discussions of Mead vs. West, prepared for his own trip at West expense.

William Brennan and his wife, Mary, flew to Hawaii for the next Devitt committee gathering. They were greeted on February 7, 1987, by the Oppermans, Devitt and Fifth Circuit Judge Charles Clark at the Kahala Hilton in Honolulu.

Brennan's first encounter with the Devitt panel had come in early 1986, in the form of a letter of invitation from Devitt.

"We would very much like to have you serve on the committee," Devitt had written. "I feel sure you will enjoy it. In the past we have met for several days at the time of the Supreme Court mid-winter break in late January or early February. We have met in Palm Springs on two occasions [and] in the Virgin Islands. . . . It makes for a nice break from the routine, and the responsibilities are not too burdensome. . . . The ten of us make for a small congenial group. The arrangements are made and cared for by Mr. Opperman."

After Brennan's trip to the Kahala Hilton, Powell wrote to Devitt: "Bill Brennan returned from your recent meeting with great enthusiasm and approval of the work of the committee. His delightful wife Mary was equally enthusiastic." And Mary Brennan wrote Devitt on Supreme Court notepaper saying: "Bill and I wanted you to know how very much we enjoyed being with you in Hawaii. We had a great time, didn't we."

That summer, the Brennans and Oppermans had dinner together in Rochester, Minn., while the justice was getting a checkup at the Mayo Clinic. While in Rochester, they discussed plans for the next Devitt panel meeting. Brennan wrote Devitt shortly afterward: "February 6–9 is open for Mary and me and we can't wait."

1988

The Brennans traveled to Naples, Fla., in February for the next Devitt committee meeting, staying at the Ritz-Carlton.

Brennan apparently was asked to recruit Chief Justice William Rehnquist to serve on the panel the following year. But Rehnquist declined, Brennan reported, calling it "wonderful duty but in his special relationship with the judges of the district courts and the court of appeals he thinks his service might be regarded as inappropriate." Brennan concluded his letter to Opperman saying: "Have you anyone else in mind?"

Sandra Day O'Connor was invited to join the Devitt committee after three of the five recent West-related petitions came before the court.

She accepted the invitation in a letter to Devitt saying: "My colleagues have reported that it is a most pleasant task carried out in a delightful setting." She declined Devitt's invitation to suggest a meeting place.

California was chosen and Opperman wrote to O'Connor saying he would enclose "a brochure about the hotel which is one of the nation's finest." He reminded her that "the Devitt Committee travels first class" and that he would meet the justice and her husband, John, when they disembarked from their flight to the West Coast.

1989

The Ritz-Carlton hotel in Rancho Mirage offers luxurious accommodations near some of the country's finest golf courses and the Devitt committee met there from Jan. 28–31. Devitt had set up advance golf reservations—with 10 a.m. tee times—for himself and the O'Connors, Sunday at the Mission Hills Resort and Monday at the Desert Island Country Club.

At the Ritz-Carlton, Devitt received a handwritten note from a member of West's team outlining the plans: The group would meet at the Club Lounge each evening at 5:30. At about 6, a limo would take them to dinner. The business meetings were listed as "Time to be determined." On Sunday and Monday mornings, O'Connor and Devitt were scheduled to depart for the golf course at 9:30.

After the California meeting, O'Connor wrote to Devitt on Feb. 14: "The Devitt Awards Committee meeting was such a pleasant experience. I truly enjoyed the break from my routine and the chance to join you on the links."

Before long, it was time to start planning the next meeting, to be held at the Bel Air Hotel in Los Angeles, described in a promotional brochure as "DISCREET. UNHURRIED. PRICELESS."

"I re-read the brochure about the fancy hotel," Devitt wrote to O'Connor in December. "I'm sure we will have a good time there. Dwight Opperman and I talked about it at lunch yesterday."

About the time he wrote the letter, Donna Nelson, an assistant state attorney general in Austin, Texas, was writing the next petition the high court would receive asking it to hear a case against West.

For decades, West had published the statutes of Texas and some two dozen other states under an arrangement that was welcomed by state officials. But the harmonious relationship ended in 1985, when West tried to use copyright claims to block a competitor. Texas Attorney General Jim Mattox set out to challenge West's copyright claims in court. Nelson was assigned to write the briefs arguing that access to the law belonged to the people of Texas, not to a private company.

West didn't claim it owned the words in the law. But it claimed rights to the arrangement, numbers and titles of the various sections in the law. Without those elements, the law would be inaccessible, Texas argued.

Federal judges at the Fifth Circuit Court of Appeals agreed with a Texas judge who had granted West's request that the case be dismissed. When Nelson argued the case, one of the appeals court judges asked her, "Did West do something to make you mad?" Texas wasn't planning to publish the laws commercially and didn't have an "actual controversy" with West, the appeals judges ruled.

What was never disclosed to Nelson was that one of the three appeals court judges, John Minor Wisdom, had been a co-winner of the Devitt award four months before the panel issued its ruling against Texas. West had presented him with $15,000 at a ceremony in New Orleans.

Nelson wasn't surprised when the Supreme Court rejected her petition for an appeal. But five years later—after learning from the Star Tribune that a circuit judge had accepted the cash award and justices had accepted expensive trips from the state's opponent—Nelson said: "That just breaks my heart. That's awful."

1990

Five days after the court rejected the Texas petition (apparently without disqualification by any member), O'Connor flew to Los Angeles to meet Opperman, Devitt and the others at the Bel Air Hotel.

After the trip, Devitt wrote to O'Connor: "We were all very happy to have John [her husband] with us at Bel-Air. He is a wonderful Irishman."

Later, O'Connor wrote to Devitt telling him "it was a great treat" to serve on the award committee and sent him photographs of the visit to California.

When she filed the financial disclosure forms judges are required to complete each year, she didn't report the West-paid trip. When the Star Tribune inquired about the form, she—

Justice O'Connor—

said through a court spokeswoman that it was an oversight and that it will be corrected.

John Paul Stevens got his invitation to serve on the Devitt committee in February. "I feel sure you will enjoy it," Devitt wrote to Stevens. Stevens responded by telephone, according to Devitt's handwritten notes, saying he wanted to meet in Florida.

That spring, Opperman wrote Stevens asking whether the justice and his wife, Maryan, preferred golf or tennis. Stevens wrote back: "It was most thoughtful of you to accommodate us. In response to your inquiry, we are both interested in tennis and golf."

1991

Stevens, his wife and other committee members met with the West executives in January at the Ritz-Carlton in Naples. Judge William J. Holloway Jr., who also attended, said judges were provided with suite accommodations courtesy of West. A receipt shows that Devitts' room charge was $700 a night.

Meanwhile, in Washington, the court had received a fifth request to hear a case against West. Arthur D'Amario, a photographer from Rhode Island, had an altercation with security guards outside a rock concert at the Providence Civic Center and was convicted of simple assault. When his appeal was denied by the Rhode Island Supreme Court, West received a copy of the opinion as part of the material it routinely gathers for its books.

D'Amario tried to stop West from publishing the opinion, alleging it was libelous and would infringe on his privacy rights. Lower courts had ruled that they could not enjoin West from publishing an official court decision. D'Amario petitioned the Supreme Court to hear the case.

D'Amario did not know until last month that justices considering his case had been entertained by West. "I think they have a duty to notify the petitioner of a conflict of interest like this whether or not they think that the potential conflict affects their judgment," he said. "If I had known this, I might have raised an ethics complaint at the time."

D'Amario's petition came before the court's conference two months after Stevens returned from the Florida trip. The justices denied the petition on March 18.

D'Amario's petition marks the end of the requests the court has received since 1982 to hear cases against West. But the trips continued.

In May, Devitt wrote Stevens about plans for the January 1992 meeting of the committee. "We will probably meet either in some Caribbean spot or on a boat trip out of some Florida port."

1992

Indeed, they did find a warm port. Stevens and his wife joined the committee for a January meeting in Nassau, the Bahamas, at Paradise Island Resort & Casino.

Another judge on the committee, Holloway of the 10th Circuit Court of Appeals in Oklahoma City, reported on his disclosure form that West provided "lodging, food, entertainment and miscellaneous courtesies."

Devitt died March 2. Few records about the committee meetings after his death are available.

1993

Antonin Scalia was the next justice to make a West-paid trip.

In January 1993, Scalia and his wife attended a Devitt committee meeting in Los Angeles, according to his financial disclosure form. Scalia had written to Devitt in August 1991 that he and his wife, Maureen, "look forward to a warm meeting place—though we will leave the selection to you."

Scalia did not list a value for the trip. However, another judge attending that session, Seventh Circuit Court Judge William Bauer, listed the value of the three days of West-sponsored lodging and travel at $7,700.

1994

The Star Tribune was unable to determine where the Devitt committee met to make its decisions in 1994.

1995

Anthony Kennedy is the newest justice to join the Devitt committee. He attended his first meeting as a panelist in January at the posh Four Seasons hotel in New York City.

Kennedy joined the group after the court decided against hearing appeals in the Texas and D'Amario cases, and no West cases have come before the court since then.

Kennedy declined to release his correspondence concerning the Devitt committee. But Richard Arnold, chief judge of the Eighth Circuit, released letters he received from Opperman describing arrangements for the meeting:

"The committee and spouses usually eat dinner as a group. If there is some restaurant you especially want to try let me know," Opperman wrote to Arnold in October.

"There will be time for the theater and museums. I would like to know your interests so we can accommodate them."

The official business of the committee was taken care of in two three-hour meetings during the trip that lasted Jan. 22–25, Arnold said.

Mr. President, what we have here appears to be convincing evidence that West Publishing, through its chief executive officer, was providing free trips to members of the Federal judiciary, many times to the poshest of resorts, at the same time that West was involved in litigation before those courts. In instance after instance, as this story has documented, it appears that the impartiality of the judiciary could have been called into question, thus undermining the confidence which the American people place in that branch of government.

Let me stress here that I do not believe any Federal judge, any more than any Member of Congress, is easily susceptible to influence as a result of travel taken in connection with an awards-selection committee. But just as the bill now before the Senate is meant to address very real concerns with regard to the public's perception of the legislative branch, so, too, my amendment is meant to encourage the Judicial Conference to address such concerns within the judicial branch.

For those Senators who may not be familiar with the rules and regulations promulgated by the Judicial Conference, let me quote briefly from section 5 of those regulations. That section, dealing with the acceptance of gifts, states, in part:

A judicial officer or employee shall not accept a gift from anyone except for a gift incident to a public testimonial, notes, tapes, and other source materials supplied by publishers on a complimentary basis for official use or an invitation to the officer or employee and a family member to attend a bar-related function or an activity devoted to the improvement of the law, the legal system, or the administration of justice.

My concern, Mr. President—especially in light of the newspaper article I have just read—and thus the basis for my amendment, is that the language in section 5 of the regulations of the Judicial Conference may allow too much latitude and thus jeopardize the appearance of impartiality of the judiciary.

If we agree that there is a crisis of confidence in this country regarding the most sacred institutions of our Government, and that that crisis must be addressed, then I think we must agree that no branch of Government can ignore the challenge to look inward and reevaluate its rules of conduct—not the legislative branch, not the executive branch, and certainly not the judicial branch. We must all accept the responsibility for addressing public perception by strengthening our internal rules in an effort to put very valid concerns about improper conduct to rest, however unfounded those concerns may be. Mr. President, my amendment will say to the Federal judiciary that it, too, should join the legislative and executive branches in undertaking that task.

AMENDMENT NO. 1878 TO AMENDMENT NO. 1872

(Purpose: To express the sense of the Senate with respect to the regulation of the acceptance of gifts by the judicial branch)

Mr. BYRD. I urge my colleagues to support my amendment, which I now send to the desk. I ask that such time as I have already used be charged against the time under my control on the amendment, reserving only 5 minutes for my further control.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1878 to amendment No. 1872.

At the appropriate place in the amendment, insert the following:

SEC. . GIFTS IN THE JUDICIAL BRANCH.

It is the sense of the Senate that the Judicial Conference of the United States should review and reevaluate its regulations pertaining to the acceptance of gifts and the acceptance of travel and travel-related expenses and that such regulations should cover all judicial branch employees, including members and employees of the Supreme Court of the United States.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the news article to which I have referred, March 5, 1995, Metro Edition, Minneapolis Star Tribune, so that the RECORD will show that I have read the article word for word, offering no interpretations of it on my part, with the exception of, from time to time, reidentifying a name for clarification for the reader or listener.

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

[From the Minneapolis Star Tribune, Mar. 5, 1995]

WEST AND THE SUPREME COURT; MEMBERS ACCEPTED GIFTS AND PERKS WHILE ACTING ON APPEALS WORTH MILLIONS TO MINNESOTA FIRM

(By Sharon Schmickle and Tom Hamburger)

"Equal Justice Under Law." These words, chiseled above the huge bronze doors of the Supreme Court, promise that its justices will be impartial.

Yet some parties who asked the court to review their claims against West Publishing Co. now wonder if they received equal treatment. The reason: Since 1983, West has treated seven Supreme Court justices to luxurious trips at posh resorts or hotels.

None of them saw the trips as reason to disqualify themselves from considering whether to hear five cases involving their host. In each of the five instances, the justices declined to review a lower court's decision, leaving intact a decision in favor of West.

The odds already were against West's opponents, because the high court each year agrees to hear fewer than 200 of the 5,000 or so requests for review.

Two of the West cases involved key copyright issues. And two cases were placed on lists indicating they were actively discussed at the justices' weekly conference.

All justices refused interviews, but two—Antonin Scalia and Lewis Powell, who's now retired—said in written responses that they saw nothing wrong with accepting expense-paid trips to attend meetings for what they regard as a worthy purpose. "That company [West] has been of great importance to the legal profession and to legal scholars," Powell wrote in response to the Star Tribune's inquiry.

Here's a review of the justices' trips and the West-related cases the Supreme Court considered:

1983

Byron White set the pattern for other justices. He accepted an invitation to serve on a committee to select the winner of the Edward J. Devitt Distinguished Service to Justice Award, a prize sponsored by West Publishing Co. The other committee members were Devitt and Judge Gerald Tjoflat of the 11th Circuit Court of Appeals. Each committee member was to serve for two years.

The committee could have reviewed candidates in St. Paul, where Devitt lived, or on the East Coast, where White and Tjoflat worked. Instead, they conducted their February meeting at Marriott's Rancho Las Palmas in Palm Springs, Calif. It's an appealing place—a four-star resort with tennis courts and 27 holes of golf—and West picked up the tab. The trip gave White, a former All-American halfback, a chance to have a reunion with his old football coach, Johnny (Blood) McNally, who lived nearby. Spouses were invited.

West's CEO, Dwight Opperman, also attended the retreat, although he did not sit in on selection-committee meetings.

1984

The group considered going to Florida for its second meeting. But after consulting White, Devitt wrote to Opperman: "He said his wife was not too enthused about Florida. We discussed San Diego, but I pointed out to him that that place is not a warm spot in January or February."

California was selected. "Dwight Opperman has made a reservation for the 1984 meeting at Marriott's Las Palmas Hotel in Palm Springs (same as last year)," Devitt wrote to White. In the same letter, he said, "Dwight wants to have Johnny Blood McNally and his wife join us for recreation as before."

McNally, a graduate of St. John's in Collegeville, Minn., coached White when he played for the Pittsburgh Steelers. Devitt wrote McNally, inviting him and his wife to join the group for "social affairs."

A couple of weeks after the trip, paid for by West, White wrote to Devitt: "As usual, it was a pleasure to be with you even if your golf was intolerably good."

Another Supreme Court justice also benefited that year. Chief Justice Warren Burger was chosen to receive a special award from the Devitt committee. He donated his $10,000 prize to an organization that promotes interest in the law.

Lewis Powell succeeded White on the Devitt panel. "Caneel Bay is a place my wife Jo and I always have hoped to visit," Powell wrote in a 1984 letter to Devitt.

Opperman begun scheduling a fall meeting at the exclusive resort on St. John in the Virgin Islands.

Within weeks of the suggestion, Opperman wrote to the justice, saying the meeting would take place at Caneel Bay. He promised to send resort brochures and invited the Powells to stay overnight in Miami the day before the committee was to meet. The letter reminded Powell: "The Devitt Committee travels first class, of course." And it said, "I will send you a check for the air fares right away and will reimburse you for incidental expenses as you advise me."

After the trip, Powell wrote to Devitt, sending a copy to Opperman, suggesting the next meeting be held at the Breakers Hotel in Palm Beach, Fla. He said it is "on the water, superior facilities, and affording many interesting things to do and places to see—particularly for our ladies."

1985

Back in Washington, Powell and White received a list of cases that included the name "West Publishing Co." during their closed-door conference meetings at the Supreme Court.

Patrick Beary, who ran a one-man law office in Queens, N.Y., had decided to press a libel complaint against West to the nation's highest court. Beary wrote his own briefs for the case that had been thrown out by judges in lower courts. A federal appeals panel ruled that West had accurately published a court decision involving Beary and that such activity was protected by law. Beary claimed his libel case raised constitutional questions requiring the high court's review.

Beary's petition was placed on the list of requests the justices decided to discuss, suggesting that at least one justice wanted to consider it. However, it was rejected for reasons that aren't known because the court's conferences are secret.

At the time, Beary understood the rejection. Now that he knows about the trips, he's not so sure. "The justices who went on these trips may have swayed their fellows on the court not to hear the case, you know. I am entitled to my day in court and I didn't get it," he said.

1986

Three months after the court rejected Beary's petition, it was time for Powell and his wife to head to the next Devitt committee meeting, at the Breakers Hotel in Palm Beach, a hotel where double-occupancy rooms currently go for $290 to $455. They joined the Devitts, Ninth Circuit Judge James Browning and two West executives and their wives.

After the January meeting, Powell wrote Opperman: "It was obvious that Jo and I enjoyed the gathering last week of the Devitt Award Committee group." He went on to praise the work of the committee, then added, "I was most favorably impressed by [West vice president] Gerry Cafesjian." In June, Powell wrote Devitt telling how much he enjoyed photos taken by Cafesjian and mailed to him after the trip. "We had several chuckles and the pictures brought back the warmest memories," the justice wrote.

Less than three weeks later, West's name again surfaced before the court.

West had resisted paying more than $160,000 in back taxes, interest and penalties that the city of Phoenix was trying to collect. It was a "business-privilege" tax that the city routinely imposed on business activity conducted within its limits. A West employee assigned to represent the company in Arizona worked out of his Phoenix home, seeking orders and answering questions about West's products. West argued that most of its business in Arizona was conducted by direct mail and that it did not actually operate an office in the city.

An Arizona appeals court agreed with West and the Supreme Court declined to hear the case. Only Justice Sandra Day O'Connor, an Arizona native, removed herself from the vote on the city's petition.

A few weeks later, Powell and White received an unexpected invitation from West. Although their two-year terms on the Devitt committee had expired, Opperman invited the justices to attend a special "advisory committee meeting."

Through an exchange of letters, they decided to meet in January at the Ritz-Carlton in Laguna Niguel, Calif. The resort, which sits on a 200-foot bluff overlooking the Pacific Ocean, has an 18-hole golf course.

A handwritten note by Devitt indicates that during the Saturday-through-Tuesday gathering, only Monday morning was devoted to committee meetings. The rest of the schedule listed "free" time, golf and dining.

1987

On Jan. 23, only days before Powell and White departed for the California resort, the court met to consider another request that it hear a case against West. It is a case that has meant more to West than any other in recent history.

The dispute involved Mead Data Central Inc., an Ohio company that had jumped into electronic publishing and threatened West's standing as a leading legal publisher. The court opinions in Mead's computerized databases referred to page numbers in West's law books. West had gone to court claiming copyright infringement and a federal judge in Minnesota had ordered Mead to stop using the numbers until the lawsuit was settled. Though preliminary, the order signaled that West's chances of winning the dispute were good.

After losing an appeal in the Eighth Circuit, Mead turned to the high court. For West and Mead, millions of dollars were riding on the decision. But the potential impact reached further. If the court decided to hear the case, it also could lay the groundwork for other publishers who were rushing into electronics.

Neither White nor Powell disqualified himself from participating in the decision, though Powell apparently thought about it. The papers of the late Justice Thurgood Marshall, on file at the Library of Congress, show that Powell apparently considered disqualifying himself, telling the clerk of the court in a letter: "Following discussion of this case at Conference today, I concluded it was unnecessary for me to remain 'out'. Therefore please disregard my letter to you of January 22."

On Jan. 27, the court refused to hear Mead's appeal and ultimately the companies negotiated a secret settlement, reportedly requiring Mead to pay fees to West.

One week after that decision, Powell and White joined Opperman, another West executive and former committee members for the "advisory" session at the California resort. And as they departed, Justice William Brennan, who had also participated in discussions of Mead vs. West, prepared for his own trip at West expense.

William Brennan and his wife, Mary, flew to Hawaii for the next Devitt committee gathering. They were greeted on Feb. 7, 1987, by the Oppermans, Devitt and Fifth Circuit Judge Charles Clark at the Kahala Hilton in Honolulu.

Brennan's first encounter with the Devitt panel had come in early 1986, in the form of a letter of invitation from Devitt.

"We would very much like to have you serve on the committee," Devitt had written. "I feel sure you will enjoy it. In the past we have met for several days at the time of the Supreme Court mid-winter break in late January or early February. We have met in Palm Springs on two occasions [and] in the Virgin Islands . . . It makes for a nice break from the routine, and the responsibilities are not too burdensome . . . The ten of us make for a small congenial group. The arrangements are made and cared for by Mr. Opperman."

After Brennan's trip to the Kahala Hilton, Powell wrote to Devitt: "Bill Brennan returned from your recent meeting with great enthusiasm and approval of the work of the committee. His delightful wife Mary was equally enthusiastic." And Mary Brennan wrote Devitt on Supreme Court notepaper saying: "Bill and I wanted you to know how very much we enjoyed being with you in Hawaii. We had a great time, didn't we."

That summer, the Brennans and Oppermans had dinner together in Rochester, Minn., while the justice was getting a check-up at the Mayo Clinic. While in Rochester, they discussed plans for the next Devitt panel meeting. Brennan wrote Devitt shortly afterward: "February 6-9 is open for Mary and me and we can't wait."

1988

The Brennans traveled to Naples, Fla., in February for the next Devitt committee meeting, staying at the Ritz-Carlton.

Brennan apparently was asked to recruit Chief Justice William Rehnquist to serve on the panel the following year. But Rehnquist declined, Brennan reported, calling it "wonderful duty but in his special relationship with the judges of the district courts and the court of appeals he thinks his service might be regarded as inappropriate." Brennan concluded his letter to Opperman saying: "Have you anyone else in mind?"

Sandra Day O'Connor was invited to join the Devitt committee after three of the five recent West-related petitions came before the court.

She accepted the invitation in a letter to Devitt saying: "My colleagues have reported that it is a most pleasant task carried out in a delightful setting." She declined Devitt's invitation to suggest a meeting place.

California was chosen and Opperman wrote to O'Connor saying he would enclose "a brochure about the hotel which is one of the nation's finest." He reminded her that "the Devitt Committee travels first class" and that he would meet the justice and her husband, John, when they disembarked from their flight to the West Coast.

1989

The Ritz-Carlton hotel in Rancho Mirage offers luxurious accommodations near some of the country's finest golf courses and the Devitt committee met there from Jan. 28–31. Devitt had set up advance golf reservations—with 10 a.m. tee times—for himself and the O'Connors, Sunday at the Mission Hills Resort and Monday at the Desert Island Country Club.

At the Ritz-Carlton, Devitt received a handwritten note from a member of West's team outlining the plans: The group would meet at the Club Lounge each evening at 5:30. At about 6, a limo would take them to dinner. The business meetings were listed as "Time to be determined." On Sunday and Monday mornings, O'Connor and Devitt were scheduled to depart for the golf course at 9:30.

After the California meeting, O'Connor wrote to Devitt on Feb. 14: "The Devitt Awards Committee meeting was such a pleasant experience. I truly enjoyed the break from my routine and the chance to join you on the links."

Before long, it was time to start planning the next meeting, to be held at the Bel Air Hotel in Los Angeles, described in a promotional brochure as "DISCREET. UNHURRIED. PRICELESS."

"I re-read the brochure about the fancy hotel," Devitt wrote to O'Connor in December. "I'm sure we will have a good time there. Dwight Opperman and I talked about it at lunch yesterday."

About the time he wrote the letter, Donna Nelson, an assistant state attorney general in Austin, Texas, was writing the next petition the high court would receive asking it to hear a case against West.

For decades, West had published the statutes of Texas and some two dozen other states under an arrangement that was welcomed by state officials. But the harmonious relationship ended in 1985, when West tried to use copyright claims to block a competitor. Texas Attorney General Jim Mattox set out to challenge West's copyright claims in court. Nelson was assigned to write the briefs arguing that access to the law belonged to the people of Texas, not to a private company.

West didn't claim it owned the words in the law. But it claimed rights to the arrangement, numbers and titles of the various sections in the law. Without those elements, the law would be inaccessible, Texas argued.

Federal judges at the Fifth Circuit Court of Appeals agreed with a Texas judge who had granted West's request that the case be dismissed. When Nelson argued the case, one of the appeals court judges asked her, "Did West do something to make you mad?" Texas wasn't planning to publish the laws commercially and didn't have an "actual controversy" with West, the appeals judges ruled.

What was never disclosed to Nelson was that one of the three appeals court judges, John Minor Wisdom, had been a co-winner of the Devitt award four months before the panel issued its ruling against Texas. West had presented him with $15,000 at a ceremony in New Orleans.

Nelson wasn't surprised when the Supreme Court rejected her petition for an appeal. But five years later—after learning from the Star Tribune that a circuit judge had accepted the cash award and justices had accepted expensive trips from the state's opponent—Nelson said: "That just breaks my heart. That's awful."

1990

Five days after the court rejected the Texas petition (apparently without disqualification by any member), O'Connor flew to Los Angeles to meet Opperman, Devitt and the others at the Bel Air Hotel.

After the trip, Devitt wrote to O'Connor: "We were all very happy to have John [her husband] with us at Bel-Air. He is a wonderful Irishman."

Later, O'Connor wrote to Devitt telling him "it was a great treat" to serve on the award committee and sent him photographs of the visit to California.

When she filed the financial disclosure forms judges are required to complete each year, she didn't report the West-paid trip. When the Star Tribune inquired about the form, she said through a court spokeswoman that it was an oversight and that it will be corrected.

John Paul Stevens got his invitation to serve on the Devitt committee in February. "I feel sure you will enjoy it," Devitt wrote to Stevens. Stevens responded by telephone, according to Devitt's handwritten notes, saying he wanted to meet in Florida.

That spring, Opperman wrote Stevens asking whether the justice and his wife, Maryan, preferred golf or tennis. Stevens wrote back: "It was most thoughtful of you to accommodate us. In response to your inquiry, we are both interested in tennis and golf."

1991

Stevens, his wife and other committee members met with the West executives in January at the Ritz-Carlton in Naples. Judge William J. Holloway Jr., who also attended, said judges were provided with suite accommodations courtesy of West. A receipt shows that Devitts' room charge was $700 a night.

Meanwhile, in Washington, the court had received a fifth request to hear a case against West. Arthur D'Amario, a photographer from Rhode Island, had an altercation with security guards outside a rock concert at the Providence Civic Center and was convicted of simple assault. When his appeal was denied by the Rhode Island Supreme Court, West received a copy of the opinion as part of the material it routinely gathers for its books.

D'Amario tried to stop West from publishing the opinion, alleging it was libelous and would infringe on his privacy rights. Lower courts had ruled that they could not enjoin West from publishing an official court decision. D'Amario petitioned the Supreme Court to hear the case.

D'Amario did not know until last month that justices considering his case had been entertained by West. "I think they have a duty to notify the petitioner of a conflict of interest like this whether or not they think that the potential conflict affects their judgment," he said. "If I had known this, I might have raised an ethics complaint at the time."

D'Amario's petition came before the court's conference two months after Stevens returned from the Florida trip. The justices denied the petition on March 18.

D'Amario's petition marks the end of the requests the court has received since 1982 to hear cases against West. But the trips continued.

In May, Devitt wrote Stevens about plans for the January 1992 meeting of the committee. "We will probably meet either in some Caribbean spot or on a boat trip out of some Florida port."

1992

Indeed, they did find a warm port. Stevens and his wife joined the committee for a January meeting in Nassau, the Bahamas, at Paradise Island Resort & Casino.

Another judge on the committee, Holloway of the 10th Circuit Court of Appeals in Oklahoma City, reported on his disclosure form that West provided "lodging, food, entertainment and miscellaneous courtesies."

Devitt died March 2. Few records about the committee meetings after his death are available.

1993

Antonin Scalia was the next justice to make a West-paid trip.

In January 1993, Scalia and his wife attended a Devitt committee meeting in Los Angeles, according to his financial disclosure form. Scalia had written to Devitt in August 1991 that he and his wife, Maureen, "look forward to a warm meeting place—though we will leave the selection to you."

Scalia did not list a value for the trip. However, another judge attending that session, Seventh Circuit Court Judge William Bauer, listed the value of the three days of West-sponsored lodging and travel at $7,700.

1994

The Star Tribune was unable to determine where the Devitt committee met to make its decisions in 1994.

1995

Anthony Kennedy is the newest justice to join the Devitt committee. He attended his first meeting as a panelist in January at the posh Four Seasons hotel in New York City.

Kennedy joined the group after the court decided against hearing appeals in the Texas and D'Amario cases, and no West cases have come before the court since then.

Kennedy declined to release his correspondence concerning the Devitt committee. But Richard Arnold, chief judge of the Eighth Circuit, released letters he received from Opperman describing arrangements for the meeting:

"The committee and spouses usually eat dinner as a group. If there is some restaurant you especially want to try let me know," Opperman wrote to Arnold in October.

"There will be time for the theater and museums. I would like to know your interests so we can accommodate them."

The official business of the committee was taken care of in two three-hour meetings

during the trip that lasted Jan. 22-25, Arnold said.

Mr. BYRD. Mr. President, I also ask unanimous consent to have printed in the RECORD, "Regulations of the Judicial Conference of the United States under title III of the Ethics Reform Act of 1989 Concerning Gifts."

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

REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES UNDER TITLE III OF THE ETHICS REFORM ACT OF 1989 CONCERNING GIFTS

Authority: Ethics Reform Act of 1989, Pub. L. No. 101-194, §§301 and 303, 103 Stat. 1716, 1745-1747 (1989), as amended by Pub. L. No. 101-280, amending 5 U.S.C. §7351 and adding new §7353 to 5 U.S.C. These regulations are promulgated by the Judicial Conference of the United States under the authorities of 5 U.S.C. §§7351(c), 7353(b)(1) and (d)(1)(C).

§1. Purpose and Scope.

(a) These regulations implement 5 U.S.C. §§7351 and 7353, which prohibit the giving, solicitation, or acceptance of certain gifts by officers and employees of the judicial branch and provide for the establishment of such reasonable exceptions to those prohibitions as the Judicial Conference of the United States finds appropriate.

(b) Nothing in these regulations alters any other standards or Codes of Conduct adopted by the Judicial Conference of the United States.

(c) Any violation of any provision of these regulations will make the officer or employee involved subject to appropriate disciplinary action.

§2. Definition of "Judicial Officer or Employee."

In these regulations, a "judicial officer or employee" means a United States circuit judge, district judge, judge of the Court of International Trade, judge of the Court of Federal Claims, judge and special trial judge of the Tax Court, judge of the Court of Veterans Appeals, bankruptcy judge, magistrate judge, commissioner of the Sentencing Commission, and any employee of the judicial branch other than an employee of the Supreme Court of the United States or the Federal Judicial Center.

§3. Definition of "Gift."

"Gift" means any gratuity, entertainment, forbearance, bequest, favor, the gratuitous element of a loan, or other similar item having monetary value but does not include: (a) modest items of food and refreshments, such as soft drinks, coffee and donuts, offered for present consumption other than as part of a meal; (b) greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation; (c) rewards and prizes given to competitors in contents or events, including random drawings, that are open to the public.

§4. Solicitation of Gifts by a Judicial Officer or Employee.

(a) A judicial officer or employee shall not solicit a gift from any person who is seeking official action from or doing business with the courts (or other employing entity), or from any other person whose interests may be substantially affected by the performance or nonperformance of the judicial officer or employee's official duties, including in the case of a judge any person who has come or is likely to come before the judge.

(b) A judicial officer or employee shall not solicit a contribution from another officer or employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an officer or employee receiving less pay than himself or herself. This paragraph does not prohibit a judicial officer or employee from collecting voluntary contributions for a gift, or making a voluntary gift, to a official superior for a special occasion such as marriage, anniversary, birthday, retirement, illness, or under other circumstances or ordinary social hospitality.

§5. Acceptance of Gifts by a Judicial Officer or Employee, Exceptions.

A judicial officer or employee shall not accept a gift from anyone except for—

(a) a gift incident to a public testimonial, books, tapes, and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the officer or employee and a family member to attend a bar-related function or an activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a gift incident to the business, profession or other separate activity of a spouse or other family member of an officer or employee residing in the officer's or employee's household, including gifts for the use of both the spouse or other family member and the officer or employee (as spouse or family member), provided the gift could not reasonably be perceived as intended to influence the officer or employee in the performance of official duties or to have been offered or enhanced because of the judicial employee's official position;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift from a relative or close personal friend whose appearance or interest in a case would in any event require that the officer or employee take no official action with respect to the case;

(f) a loan from a lending institution in the regular course of business on the same terms generally available to persons who are not officers or employees;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) in the case of a judicial officer or employee other than a judge or a member of a judge's personal staff, a gift (other than cash or investment interests) having an aggregate market value of $50 or less per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this subsection shall not exceed $100 in a calendar year;

(i) any other gift only if:

(1) the donor has not sought and is not seeking to do business with the court or other entity served by the judicial officer or employee; or

(2) in the case of a judge, the donor is not a party or other person who has come or is likely to come before the judge or whose interests may be substantially affected by the performance or nonperformance of his or her official duties; or

(3) in the case of any other judicial officer or employee, the donor is not a party or other person who has had or is likely to have any interest in the performance of the officer's or employee's official duties.

§6. Additional Limitations.

Notwithstanding the provisions of section 5, no gift may be received by a judicial officer or employee in return for being influenced in the performance of an official act or in violation of any statute or regulation, nor may a judicial officer or employee accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe that the public office is being used for private gain.

§7. Disclosure Requirements.

Judicial officers and employees subject to the Ethics in Government Act of 1978 and the instructions of the Financial Disclosure Committee of the Judicial Conference of the United States must comply with the Act and the instructions in disclosing gifts.

§8. Advisory Opinions.

The Committee on Codes of Conduct of the Judicial Conference of the United States is authorized to render advisory opinions interpreting Title III of the Ethics Reform Act of 1989 (5 U.S.C. 7351 and 7353) and these regulations. Any person covered by the Act and these regulations may request an advisory opinion by writing to the Chairman of the Committee on Codes of Conduct, in care of the Administrative Office of the United States Courts, Washington, D.C. 20544.

§9. Disposition of Prohibited Gifts.

(a) A judicial officer or employee who has received a gift that cannot be accepted under these regulations should return any tangible item to the donor, except that a perishable item may be given to an appropriate charity, shared within the recipient's office, or destroyed.

(b) A judicial agency may authorize disposition or return of gifts at Government expense.

COMMENTARY

All officers and employees of the judicial branch hold appointive positions. Title III of the Act thus applies to all officers and employees of the judicial branch. However, the Judicial Conference has delegated its administrative and enforcement authority under the Act for officers and employees of the Supreme Court of the United States to the Chief Justice of the United States and for employees of the Federal Judicial Center to its Board. For this reason, the definition of "judicial officer or employee" does not include every judicial officer or employee whose conduct is governed by Title III. For purposes of Title III and these regulations, employees of the Tax Court and the Court of Veterans Appeals are employees of the judicial branch.

These regulations do not repeal the gift provisions of the Codes of Conduct heretoforce promulgated by the Judicial Conference. The scope of the gift provisions of the Codes exceeds that of these regulations and the statute, however, in that they impose certain responsibilities on an officer or employee with respect to the receipt of gifts by members of the officer's or employee's family residing in his or her household.

Section 5 of these regulations is based upon Canon 5C(4) of the Code of Conduct for United States Judges.

Reimbursement or direct payment of travel expenses, including the cost of transportation, lodging, and meals, may be a gift and, if so, its acceptance is governed by these regulations. A judge or employee may receive as a gift travel expense reimbursement for the judge or employee and one relative incident to the judge's attendance at a bar-related function or at an activity devoted to the improvement of the law, the legal system, or the administration of justice. A report of the payment of travel expenses as a gift or otherwise may be required on the Financial Disclosure Report.

A judge covered by the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§332(d)(1), 372(c)) who violates these regulations shall be subject to discipline as provided in that Act. Any other judicial officer or employee who violates these regulations shall be subject to discipline in accordance with existing customary practices.

NOTES

1. The "Regulations of the Judicial Conference of the United States Under Title III of the Ethics Reform Act of 1989 Concerning Gifts" were adopted on May 18, 1990, by the Judicial Conference, through its Executive Committee.

2. On August 15, 1990, the Judicial Conference, through its Executive Committee, amended these regulations to implement the prohibition against gifts to superiors as required by the Ethics Reform Act of 1989, 5 U.S.C. §7351.

3. At its March 1991 session, the Judicial Conference amended these regulations to include procedures for requesting advisory opinions from the Committee on Codes of Conduct interpreting Title III and these regulations.

4. These regulations were amended by the Judicial Conference at its September 1991 session to cover the Tax Court and the Sentencing Commission, exclude compensation for teaching received by senior judges from the 15% cap on outside earned income, and make certain minor technical corrections.

5. The Judicial Conference amended these regulations at its March 1992 session to cover judges and employees of the Court of Veterans Appeals.

6. At its September 1994 session, the Judicial Conference renumbered these regulations and revised them to include a new definition of the term "gift;" a new section 4(a) prohibiting the solicitation of gifts; revised sections 4(b), 5(b), and 6 incorporating general limitations on the acceptance of gifts; a new section 5(h) permitting most employees to accept gifts of minimal value; and a new section 9 regarding the return or disposal of gifts that may not properly be accepted.

Mr. McCAIN addressed the Chair.

Mr. BYRD. Mr. President, I yield to the distinguished Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, have the yeas and nays been ordered? Did the Senator from West Virginia want the yeas and nays?

The PRESIDING OFFICER. They have not.

Mr. McCAIN. Does the Senator from West Virginia seek the yeas and nays?

Mr. BYRD. Yes.

Mr. McCAIN. Mr. President, I ask for the yeas and nays on the Byrd amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to send to the desk an amendment by Senator STEVENS that has been accepted by both sides. I realize this amends the unanimous consent procedure that has been agreed to by both sides. The amendment states the Rules Committee would be allowed to accept gifts on behalf of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I have no objection, but shall we yield back the time on my amendment first?

Mr. McCAIN. Mr. President, I yield all time on this side on the Byrd amendment.

I will take up the Stevens amendment after the vote on the Byrd amendment.

Mr. BYRD. Mr. President, I yield my time and I thank the distinguished Senator from Arizona.

VOTE ON AMENDMENT NO. 1878

The PRESIDING OFFICER. All time is yielded back. The question is on the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Oklahoma [Mr. INHOFE] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

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

The result was announced—yeas 75, nays 23, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—75

Abraham	Feingold	McCain
Akaka	Ford	McConnell
Ashcroft	Frist	Mikulski
Baucus	Glenn	Moseley-Braun
Bennett	Grassley	Murray
Bond	Gregg	Nickles
Boxer	Harkin	Nunn
Bradley	Hatfield	Pell
Breaux	Helms	Pressler
Bryan	Hollings	Pryor
Bumpers	Hutchison	Reid
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Johnston	Sarbanes
Coats	Kennedy	Shelby
Cohen	Kerrey	Simon
Conrad	Kerry	Simpson
Coverdell	Kohl	Smith
Daschle	Kyl	Snowe
DeWine	Lautenberg	Specter
Dodd	Leahy	Stevens
Dole	Levin	Thomas
Dorgan	Lieberman	Thurmond
Exon	Lott	Warner
Faircloth	Lugar	Wellstone

NAYS—23

Biden	Feinstein	Kempthorne
Bingaman	Gorton	Mack
Brown	Graham	Moynihan
Chafee	Gramm	Packwood
Cochran	Grams	Roth
Craig	Hatch	Santorum
D'Amato	Heflin	Thompson
Domenici	Kassebaum	

NOT VOTING—2

Inhofe	Murkowski

So the amendment (No. 1878) was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. McCAIN. Madam President, I ask unanimous consent that I be allowed to offer an amendment on behalf of Senator STEVENS on behalf of the Rules Committee. The amendment would clarify that the Rules Committee is authorized to accept gifts on behalf of the Senate. It is my understanding this amendment is acceptable to both sides.

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

AMENDMENT NO. 1879

(Purpose: To allow the Rules Committee to accept gifts on behalf of the Senate)

Mr. McCAIN. Madam President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. STEVENS, proposes an amendment numbered 1879.

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

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

The amendment is as follows:

At the end of the substitute amendment, add the following:

SEC. 3. ACCEPTANCE OF GIFTS BY THE COMMITTEE ON RULES AND ADMINISTRATION.

The Senate Committee on Rules and Administration, on behalf of the Senate, may accept a gift if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1879) was agreed to.

Mr. FORD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. FORD. Madam President, the next item on the agenda, I believe, is the so-called Rockefeller amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I have been advised that Senator ROCKEFELLER will not offer that amendment. Therefore, I ask unanimous consent that the amendment and the time assigned to it be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. FORD. I thank the Chair.

AMENDMENT NO. 1880

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota [Mr. WELLSTONE] is recognized to offer an amendment on which there shall be 1 hour of debate equally divided.

Mr. WELLSTONE. I thank the Chair.

99-059 O—97 Vol. 141 (Pt. 15) 11

Madam President and my colleagues, many of whom I know have travel plans, I think we have now come to a very good, solid agreement so I do not think we will need an hour for debate. I think we can do this in just a few minutes.

The amendment that I am sending to the desk makes a great deal of sense. What we are going to do in this amendment is we will have—this goes back to a debate we had just about an hour ago in this Chamber.

Anything under $10 is de minimis, and that does not count toward the aggregate. Then anything above $10 counts toward what will be an aggregate limit that Senators cannot go beyond, in terms of receiving meals or any kind of gift from any lobbyist or other special interest. Likewise, we can keep the $50; anything over $50 cannot be accepted.

So, Madam President, I think we are back on the reform track. The concern that some of us had about the prior amendment—and frankly, I say this to my good friend from Louisiana, I think this was more just a misunderstanding—we did not really see an aggregate limit and saw it as being very open-ended, in which case gifts could be given and gifts could be received in perpetuity, as long as they were under $50. This may have been an honest confusion. Now we have an amendment that brings us together. It sets some very reasonable standards. I know the Senator from Arizona wants to speak. I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. MCCAIN and Mr. LEVIN, proposes an amendment numbered 1880.

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

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

The amendment is as follows:

Strike paragraph 1(a) and insert in lieu there of the following:

"1. (a)(1) No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in this rule.

"(2) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source during a calendar year of less than $100. No gift with a value below $10 shall count towards the $100 annual limit." No formal recordkeeping is required by this paragraph, but a Member, officer, or employee shall make a good faith effort to comply with this paragraph.

Mr. WELLSTONE. I reserve the remainder of my time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I want to thank the Senator from Minnesota for this amendment, and it is very important. It is a very, very important amendment because, basically, it aggregates. So, therefore, I think my friend from Minnesota will agree with me, the ultimate effect is we have gone from the original bill, which was a $20-$50 to $50 and $100 with aggregation. So there has been an increase, not one that the sponsors of this legislation supported, but far, far different—far, far different—from the amendment that was adopted which allowed someone to take 49.99 dollars' worth every day from the same person. Now that can happen twice.

I think it strengthens the bill dramatically, and I appreciate the fact that the Senator from Minnesota uses his amendment for this, because it makes a significant change in this bill as to how it would have looked with the passage of the Lott amendment. I want to thank the Senator from Minnesota for that. I am glad it is going to be accepted on both sides.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Madam President, I yield whatever time the Senator from Michigan needs.

Mr. LEVIN. Madam President, let me congratulate the Senator from Minnesota and all the others who have worked on this amendment. Those of us who opposed the Lott amendment saw two problems with that amendment. First, was the limit of $50 was too high. We preferred the executive limit branch of $20.

The second problem with the Lott amendment that we saw was that it allowed unlimited gifts under $50, because under $50 did not count toward the aggregate. That was the second big problem that we saw with the Lott amendment.

The Wellstone amendment cures the second problem, and I want to thank the Senator from Mississippi and others who have worked on this matter. We have tried to work through most of the problems, and we really succeeded. We did a lot of good work in the last few days. We solved almost all the problems—not quite all—and we created a few for ourselves as well. But nonetheless, I think this represents significant progress.

I want to, again, thank the Senator from Minnesota—the Senator from Arizona has worked so, so hard on this whole bill—for improving the Lott amendment in this way.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Madam President, I yield whatever time the Senator from Wisconsin needs.

Mr. FEINGOLD. Madam President, I am not new to the legislative process. I am new to the Senate. I have been a legislative officer for 13 years. I have gotten used to the ups and downs. I never thought I would experience a situation where we lost and then realize we actually won. I just went through that.

I was very disappointed in the last vote because of the reasons I stated. The original McConnell suggested amendment would have allowed up to $100 a day from the same source. So we came up with a figure potential of $36,500. Senator MCCONNELL did reverse his position on that and cosponsored the McCain amendment.

Mr. McCONNELL. Will the Senator yield?

Mr. FEINGOLD. Yes, I will yield.

Mr. McCONNELL. Madam President, I assume the Senator is familiar with the legislative process around here. We often begin for purposes of negotiation. I will say, continuing to meet on the first product is not inconsistent with the spirit of bipartisanship, with which we have come to conclusion.

We have a good bill everybody can feel proud to have participated in. I think we proceeded with the best sense of bipartisanship. As Senator BYRD indicated yesterday, it seems to me that we need a little bit more of that around here. I think it would be good for all of us.

Mr. FEINGOLD. My purpose in rising is to indicate how pleased I am in how the bipartisan process has worked its way. I merely want to be clear, because there were some representations made about our proposal about an hour ago that were just plain wrong. I want to make sure the RECORD is clear.

We have now reached agreement in this body on aggregation, that there should be an aggregated total of $100. I would have preferred $50. In fact, I would have preferred zero, as we have in Wisconsin.

The key change now achieved, the only real exception to that, is the amount under $10 is not counted. That is a huge difference between not counting everything under $50, at least back in my home State. It would be nearly impossible for someone to gain in this system, to have to run around and get a gift for under $10.

Let me say, I do not believe anybody in this body would ever do anything like that or has done anything like that. I just think the American people want to see a set of rules that they can look at and say on their face, guaranteed, this will not happen.

I am very pleased. I want to thank the Senator from Mississippi, and others, as well as, of course, Senator WELLSTONE for coming to this conclusion. I believe it does bring us at least 90 percent of the way toward the ultimate reform that ought to occur.

Mr. McCAIN. Will the Senator yield me 30 seconds?

Mr. FEINGOLD. I yield.

Mr. McCAIN. I want to point out the Senator from Kentucky has been an active participant in all the negotiations. We appreciate his efforts and comity and accommodations. He, and others mentioned by the Senator from Michigan, deserves great credit for showing a spirit of compromise. We know how strongly held his views are.

There is no doubt a week ago, I say to my friends, no one believed we would be where we are today. It took a great deal of compromise on the part of the original sponsors of the bill and also on the part of the Senator from Kentucky, as well as others and, of course, the great facilitator, the Senator from Mississippi.

I hope the record is clear that this was a bipartisan effort, although it is still fraught with a significant amount of controversy.

I thank the Senator from Wisconsin.

Mr. WELLSTONE. Madam President, my understanding is we have strong support. We are just going to voice vote this. I believe that the vote on the individual gifts was a mistaken vote, because we did not have the aggregate limit. I think that was a loophole we did not want to have.

We have come together now. That is what matters. I thank Senator McCAIN. It has been really fascinating working with the Senator from Arizona, and that is the way I describe it. It has been an experience I will write about in my journal. I appreciate working with him.

I thank Senator LEVIN, who perhaps has the most knowledge about these issues on reform and has been at this as long as anybody in the Senate.

I thank Senator LAUTENBERG for his fine work, and certainly my colleague from Wisconsin. I love having him as a colleague in the neighboring State of Wisconsin. Also, Senator BREAUX, Senator McCONNELL, Senator LOTT, the majority leader.

We have now come together. We are ready to vote on this. I am very proud of what I think is a reform bill that is going to make a real difference.

I yield the floor and hope we move to a vote.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Did the Senator yield back the remainder of his time?

Mr. WELLSTONE. I yield back the remainder of my time.

Mr. LOTT. Madam President, we yield back the remainder of our time on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1880) was agreed to.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized to offer an amendment, on which there will be 35 minutes for debate.

Mr. DOLE. I withdraw the amendment.

Mr. SANTORUM. Madam President, I think it is very important that everyone recognize the significance of what we in the Senate are doing by reforming the rules by which Members of the Senate may accept gifts. I strongly support a fair and workable gift reform bill and hope very much that the House of Representatives will see fit to swiftly pass similar legislation.

The Senate need not and will not wait for the House of Representatives to act. We, upon passing this bill, will pass a Senate resolution amending the rules of the Senate to reflect the new gift provisions. What I want to touch on very briefly is the significance of amending the Senate rules. The amending of our rules represents a significant act. While some have suggested that we must and can only enact legislation to achieve reform, and while I intend to support such legislation, the fact is that we in the Senate will have achieved real gift reform when we pass a resolution amending our rules. The rules of the Senate, and of the House of Representatives, are full legal authorities promulgated under the express grant of power of article I, section 5 of the U.S. Constitution. Because we are acting from a direct grant of constitutional authority, these rules are for all intents and purposes "laws."

I emphasize this point because while the great weight of constitutional authority has long endorsed the significance, the power, and the role as law of the rules of the Senate and the House, a few recent court decisions have seemed to go against this overwhelming weight of authority. But no aberrational decisions of the lower courts should change in any way the fact that by amending the rules of the Senate we are acting under our constitutional grant of authority and we are taking a significant step having the full force and effect of law.

Madam President, I am pleased that this legislation is before us today, and I support its passage.

Mr. HATFIELD. Madam President, recent polls have shown that public approval of Congress is dismally low. The American people have tired of what they perceive as business as usual in Washington. A politician has ceased to be a word to describe a political leader, but instead it embodies a perception of Members of Congress who pander to special interest and are steeped in corruption. It saddens me to think that the greatest deliberative body in the world and the very bedrock of our democracy is held in such ill repute. While I do not think gifts necessarily translate into influence peddling by special interests, we need to avoid all appearances of impropriety if we are serious about regaining the public trust.

Our business as legislators is invalid and inconsequential if we cannot command the respect of the people we serve. The Lobbying Disclosure Act of 1995 and the Senate gift rule reforms will not wholly restore the public's confidence in the institution in which we serve, but I believe they take significant steps in the right direction. The status quo is not sufficient, and I am encouraged by the bipartisan support for these measures. I have adopted a gift ban for myself, and I welcome the extension of a similar policy to the entire Senate.

The time has come for the reforms proposed in these two pieces of legislation. We must be guided by the premise that the public's trust and confidence are more important than anything else. This bill eliminates many appearances of impropriety and it enables us to make strides at restoring the people's faith in democracy.

Mr. DODD. Madam President, there is no question that we need gift and lobbying reform. I believe every Member of the Senate agrees on that point.

But let us not fool ourselves. The impact of any gift reform bill we adopt—both substantively and in terms of public perception—will be minimal. I say this because of my firm conviction that the need for gift reform is utterly dwarfed by the need to clean up our campaign finance system. If we ban gifts without adopting campaign finance reform, a senator would not be allowed to accept a $51 dinner from an individual, but during the dinner that individual could hand the Senator a check for $1,000. I hope that once we complete this debate, we will go on to campaign finance and adopt real reform for the American people.

I hope that in adopting gift reform legislation we don't become so hidebound by rules and regulations that it becomes difficult to do our jobs. In going about their every-day business, Senators should not constantly be asking ethics attorneys to decipher what is and what is not allowed. Careers should not rise or fall on the answers to a never-ending parade of nit-picking questions. That would be unfortunate and unfair.

Instead of engaging in a picayune debate over a suffocating code of conduct, I wish we could have a full-blown discussion about the concept of personal responsibility in the Senate and in society at-large. This is a principle that unfortunately has eroded over the years, in part due to the growth of rules and ethics codes governing every aspects of our lives. These rules are all well-intentioned, and many of them are needed. But they have had the unintended consequence of allowing us to pass the buck when we face moral dilemmas large and small. Instead of consulting our consciences, we call the ethics officer. Instead of taking responsibility for our actions and their results, we hide behind the opinions of attorneys and experts.

I believe that individual Senators know how to judge right from wrong in their dealings with lobbyists and others. I believe Senators should be accountable to their consciences and to their constituents—not to a code of rules and regulations.

My pledge has always been that I do nothing in my conduct as a Senator that I cannot explain to the people of Connecticut. I think that is a rigorous, fair and accountable standard to which we should all adhere.

Mr. PELL. Madam President, as I stated when the Senate acted on gift ban legislation last year, we have ventured into the treacherous shoals of self-regulation.

I am supporting the bill, as indeed I have always supported reforms that will benefit the Senate as an institution. But I support this bill with somewhat muted enthusiasm.

In passing this bill, we are responding once again to the public's perception of the political process and the public's presumption of what our standards and motives may be.

These perceptions and presumptions must be dealt with, to be sure, but I for one find them to be often inaccurate and frequently demeaning. And the proposed remedies usually are unduly intrusive.

We should be under no illusion, I believe, that public perceptions, amplified by media attention, can be neutralized or satisfied by legislative fiat.

In the final analysis, the only way to change or disprove public perceptions and presumptions is for each of us to demonstrate integrity in all our actions.

Guidelines and rules are helpful, to be sure. But it seems to me that the best guidelines are the simplest.

I am troubled by the fact that the legislation we have passed does not meet the test of simplicity. It includes 23 exceptions and exemptions, covering ten pages of the bill, each of which is subject to expanded interpretation and challenge.

I regret, also, that the bill imposes rigid dollar limits, which while more reasonable than originally proposed, still seem unduly restrictive. I was pleased to support the Lott amendment raising the ceiling on aggregated giving, but the subsequently adopted threshold for aggregating seems unreasonably low.

The legislation of course does have redeeming features. One of the most significant, to my mind, is the prohibition on acceptance of elaborate and luxurious recreational trips at lobbyists' expense.

And the basic intent of the legislation certainly is praiseworthy, namely to remove extraneous and improper influence, when it does occur, from the legislative process.

Finally, I would applaud the fine sense of compromise that prevailed in winning approval of the legislation without time consuming and acrimonious debate. For that, the Senate and the Nation are better off.

VOTE ON AMENDMENT NO. 1872, AS MODIFIED

The PRESIDING OFFICER. The question is on the substitute amendment offered by Senator McCAIN, No. 1872.

Mr. LEVIN. Madam President, before that, I am just going to spend 30 seconds to clarify a point on the request of Senator JOHNSTON, if I have time. He has asked a question about hospitality at an embassy, at a chancellery. I wanted to assure him and the body, at his request, that the personal hospitality exception is intended to cover such hospitality at embassies and chancelleries.

Madam President, I want to pay particular tribute to Linda Gustitus and Peter Levine of my staff.

Night after night, week after week, month after month, they successfully pulled ideas into workable solutions in both lobby reform and gift reform. What a week of political reform these two great staffers helped produce. How much this Senate and this Nation and I personally owe them.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 1872.

The amendment (No. 1872), as modified, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

SENATE GIFT REFORM

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 158) to provide for Senate gift reform.

The Senate proceeded to consider the resolution.

Mr. McCAIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I congratulate all of my colleagues involved in these negotiations. I think we have a good bill, one that we can be proud of, that has been brought about by bipartisan consensus and negotiation. I think this is one issue we want to get behind us. We have done that with what I think will be a unanimous vote. We promised to complete this action by today, and we have done that. We have also taken care of lobbying reform. I thank the Senator from Michigan, the Senator from Arizona, the Senator from Wisconsin, the Senator from Kentucky, Senator BREAUX, Senator WELLSTONE, Senator JOHNSTON, Senator FEINGOLD, and many others who have been involved directly. It is always more difficult when it affects us. In my view, we have a good result and one that ought to be supported by everyone.

The PRESIDING OFFICER. The question is on agreeing to Senate resolution 158.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oklahoma [Mr. INHOFE] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murray
Boxer	Grams	Nickles
Bradley	Grassley	Nunn
Breaux	Gregg	Packwood
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Roth
Coats	Inouye	Santorum
Cochran	Jeffords	Sarbanes
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simon
Coverdell	Kempthorne	Simpson
Craig	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Kyl	Thomas
Dole	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	

NOT VOTING—2

Inhofe	Murkowski

So the resolution (S. Res. 158) was agreed to.

Mr. DOLE. Madam President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 1061

The PRESIDING OFFICER. The Chair announces that S. 1061 is indefinitely postponed.

The Chair recognizes the majority leader.

Mr. DOLE. Madam President, the American people sent us a message last November. A lot of us might prefer to think that message was directed to the executive branch alone. But part of that message was directed to Congress. The American people want a Congress accountable to them, and them alone. The American people want us to rein in our appetites and to take the steps necessary to correct the perception that Congress suffers from an arrogance that shields it from the dramatic changes sweeping this country.

I am pleased that we have responded, and I am pleased that we have done so in a bipartisan manner. The very first legislation passed in this Congress was a requirement that Congress would henceforth live under the same laws that apply to everyone else. We have begun the hard task of living under a balanced budget just like most Americans do every day. Several days ago, we passed the next installment on reform legislation, legislation which reformed the way lobbyists do business in our Nation's Capital.

And, today, we have passed the next congressional reform package, one which directly confronts the concerns many Americans might have about how we conduct our business. Now, I think in most cases the problem of gifts to Members is one of perception. But I think respect for the institution of the Senate demands that we take the extra steps necessary to ensure that perceptions do not become reality. We have done that today.

I have in the past made clear that if it was necessary I would be prepared to eliminate all gifts—I do not go out to dinner with lobbyists. But I do not think anyone around here has cornered the market on integrity and the bipartisan package before us is a good balance of the need for reform and the need for common sense.

We certainly do not intend to place Members in the awkward position of refusing a gift of nominal value when addressing, say, the local Kiwanis Club, and situations like these are addressed in a reasonable way by this bipartisan package. If these reforms turn out to be insufficient, then we will tighten them up further.

I want to pay tribute to those on both sides of the aisle who worked so hard to resolve very real differences—Senators MCCAIN and LEVIN, in particular, who worked so hard to resolve these differences.

I would like to thank Senator LOTT for heading up a bipartisan task force that produced this gift reform package. He and his assistant, Alison Carroll, did a superb job. And, finally, I would like to thank Senator MCCONNELL, who was ably assisted by Melissa Patack, for his leadership on yet another tough issue.

PRESIDING OFFICER NOT BOUND BY PRECEDENCE ON APPROPRIATIONS BILLS

Mr. DOLE. Madam President, I ask unanimous consent that in the future the Presiding Officer not be bound by the precedence established on March 16, 1985, regarding legislation on an appropriations bill.

Mr. FORD. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. DOLE. Madam President, I ask unanimous consent that there 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 up to 5 minutes each.

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

FOREIGN RELATIONS REVITALIZATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to S. 908, the State Department revitalization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

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 S. 908, the State Department reorganization bill:

Senators Dan Coats, Spencer Abraham, Nancy Kassebaum, Rick Santorum, Jesse Helms, Judd Gregg, Rod Grams, Olympia Snowe, Bob Dole, Thad Cochran, Paul Coverdell, Larry Craig, Phil Gramm, Kay Bailey Hutchison, Dan Nickles, and Trent Lott.

Mr. DOLE. Mr. President, I ask unanimous consent that at 2 p.m. on Monday, July 31, the Senate resume consideration of S. 908, the State Department revitalization bill.

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

VITIATION OF CLOTURE MOTION—S. 908

Mr. DOLE. Mr. President, I now ask unanimous consent that the previous cloture motion to proceed to S. 908 be vitiated.

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

THE SENATE PROGRAM

Mr. DOLE. Mr. President, I might say to all Senators that the Senate will resume consideration of the State Department revitalization bill at 2 p.m. on Monday.

Any rollcall votes will not occur prior to 6 p.m on Monday.

I might also say that somebody who wants to debate only the State Department bill can do so this afternoon if they cannot be here Monday. It might be a good opportunity for opening statements which they want to make, or some statement about some amendment and a discussion about one of their amendments.

I have also visited with both the minority Democratic whip and the Democratic leader. And I think we should put all Senators on notice that there probably will be a Saturday session a week from tomorrow.

We have a lot to do. We would like get out of here as quickly as we can in August. We are not going to make the August 4 recess, but beginning maybe sometime later in August.

That is what we will know for certain on Monday. But I want to put Senators on notice that there could be a Saturday session on August 5. So all Senators should be on notice.

It is my hope that we will be on with the welfare reform maybe late Friday night and, if we should get bogged down on the State Department revitalization bill and unable to get cloture on the bill itself, if it seems likely we will not get cloture on the second, then I think we would move to the DOD authorization bill where I understand that could be finished in perhaps 2½ days.

Upon completion of that, it would be my intention to try to work out—in fact, before we complete—if we can work out some dual-track procedure, which we have done in the past, where we consider appropriations bills after a certain time each day because the appropriators are very anxious that we complete at least six appropriations bills before we start the recess. We have completed two. I understand one conference has been completed on the legislative appropriations. We will take up the conference report next week.

Energy and water is available now. But there are some problems we are trying to work out. There may be as

many as three others before Tuesday or Wednesday of next week.

So I just say to my colleagues that on Monday there will be no votes until 6 p.m., but I assume there will be votes at 6 p.m., and then we are in for probably long nights and maybe a Saturday session next week. And we will be in all of the following week.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, let me thank the distinguished majority leader for giving us the advance notice so that we can make arrangements for Saturday, August 5, and expect to be here to debate and vote on Saturday. Then we would be back at 9 o'clock probably on Monday, and continue our effort, whether it is welfare reform or whatever the distinguished majority leader wishes to bring up.

I thank him for giving us this advanced warning. I think all have expected that Saturday, August 5, would be used. And I think it is a wise use of time by letting us out tomorrow and then coming back.

So I thank him for that.

Mr. President, we are now in the period of morning business in which each Senator has 5 minutes. Is that is correct?

The PRESIDING OFFICER. That is correct.

LOBBYING REFORM AND GIFT BAN

Mr. FORD. Mr. President, as we finish up on the important piece of legislation, the lobbying reform and the gift ban, I want to take a minute to thank the many people who worked to produce a significant step toward restoring confidence in this institution.

And it clearly would not have been possible without the leadership of the distinguished Democratic leader, Senator DASCHLE.

I want to thank him for placing his confidence in me to chair the working group—a task which I shared equally with my cochair Senator LEVIN, and whom I want to extend a special thanks, along with his most capable staff. Our job was made infinitely more easy by the considerable amount of hard work, time, and effort the working group and their staffs dedicated to making this process work. That group include Senators WELLSTONE, FEINGOLD, LAUTENBERG, ROCKEFELLER, BREAUX, DODD, and REID. And I offer my thanks and congratulations for a job well done to them and their staffs.

I also want to commend my colleague, the Majority Whip TRENT LOTT, whose leadership and hard-working staff helped bring cooperation and closure to this issue. Because of the hard work of all of these people, I think we now have a piece of legislation that all who participated in can be proud of and will have a stake in.

Before I close, I do want to say that this reform is a step in—not an end to—the process of reforming Congress and of making this an institution that inspires confidence and pride from all Americans.

Tickets to a concern, a ball game, or an occasional lunch or dinner raise the eyebrows of our constituents, and lower our esteem in their eyes. And that is inexcusable. But, the true role and influence of special interests on Congress is not determined by these gifts. Rather, the true role and influence of special interests on Congress lies with the financial contributions that Members of Congress receive for their campaigns.

If we use our successes on lobbying reform and the gift ban as a substitute for campaign reform, then we will have failed.

The practice of raising unlimited amounts of money through fundraisers hosted by corporations and lobbyists, distinguishes us from the executive branch. That branch of Government could never justify such an act, and neither should we.

Yet, the majority of Members of this body participate in the never-ending ritual of chasing after special interest money. And despite our success on lobbying reform, despite our success on gift ban, this money chase is the true impediment to the independence of our elected officials. The effort to restrict the gifts a Member may or may not receive is vital but incomplete. With or without gift reform, Congress will continue to be diminished in the eyes of the public until we pass comprehensive campaign reform.

So, Mr. President, I urge my colleagues not to let our efforts on gift and lobbying reform be a hollow gesture but, rather, the predecessor to comprehensive reform and to fully securing the respect and trust of the American people.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that I might proceed for 2 minutes as in morning business.

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

BABY PEREGRINE FALCON AT THE IMMACULATE CONCEPTION

Mr. CHAFEE. Mr. President, a week ago last Tuesday, July 18, the Washington Post had a very exciting article about the return of the peregrine falcons to the Washington area and the birth of a male peregrine falcon baby chick at 75 feet high on a window ledge of the National Shrine of the Immaculate Conception in Northeast Washington.

This is exciting news for those of us interested in the Endangered Species Act and the return of some of these species that have been so endangered in our society.

As a matter of fact, one of the things that led to the near demise of the peregrine falcon was the use of DDT and other pesticides which have now been banned. Because of the prevalence of those pesticides, particularly DDT, there were only 100 known pairs of peregrine falcons left east of the Mississippi, but they are making their comeback. I wish to pay tribute not only to the Endangered Species Act, not only to our action in banning DDT, but the work of other areas such as the World Center for Birds of Prey which is located in Boise, ID, where raptors such as the peregrine falcon are brought together and the breeding takes place, and then they are put out in various parts of our country to live in the natural environment.

So this is exciting news. There are plenty of people who trash the Endangered Species Act, but I think it is important to bring to the attention of the public where that act has been successful as in this instance of the return of the peregrine falcon.

I thank the Chair. I thank my friend from Missouri for permitting me to go ahead.

Mr. President, I ask unanimous consent that an article from the Washington Post entitled "And Baby Falcon Makes Three" be printed in the RECORD.

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

[From the Washington Post, July 18, 1995]

AND BABY FALCON MAKES THREE—FINDING D.C. TO THEIR LIKING, PEREGRINE PAIR PRODUCE A RARE ADDITION

(By D'Vera Cohn)

Washington may have no skyscrapers, but now it's got something else that is a symbol of a big city: A rare peregrine falcon hatched here this year, the first in memory.

It's a boy!

Few creatures inspire the awe that peregrines do. They are the world's fastest birds, zooming for prey at speeds up to 200 miles an hour. Kings used the hooded falcons for hunting. And they are still so scarce, after pesticides nearly wiped them out, that only 100 known pairs live east of the Mississippi River.

Peregrines are making a comeback in some cities, but they'd never been known to produce young in the District. They love heights—in the wild they nest on cliffs. Could it be that Washington's stubby skyline didn't present the right circumstances for romance?

Now, it seems, height isn't everything.

A pair of peregrines took up residence this spring on the ledge of a small round window about 75 feet up the National Shrine of the Immaculate Conception, at Fourth Street and Michigan Avenue NE. In April, church workers spotted a white downy chick.

"The baby in the nest would come to the edge and squawk," said Jan Bloom, secretary to the rector. One of the parents "would get breakfast and come back. . . . We'd see them on the roof pecking at what they'd caught."

Peregrines, the size of large crows, are killing machines. They knock down smaller birds with their strong claws, then finish them off with a bite to the nape.

The people at the shrine didn't give away their secret. But Washington's birding world had an inkling something was going on, somewhere.

For the last two winters, a pair of peregrines had been seen killing pigeons at a church on Thomas Circle in Northwest Washington. This year, one began giving food to the other, the avian equivalent of a bachelor offering a diamond engagement ring. Then, as spring arrived, they vanished.

Every rumor about where they'd gone triggered a search. A brood seen atop a downtown building turned out to be kestrels. Birders checked Washington National Cathedral, assuming they must be in a tall place nearby. Nothing.

Then, one day in June, Deborah Ozga spotted three birds flying around the National Shrine. She heard the pulsing scream of a bird of prey. Thinking the three were hawks, she returned with binoculars and a bird book.

Ozga, who heads the chemistry and physics libraries at Catholic University next to the church, was stunned when she realized what had flown into the neighborhood.

"I knew that to see them was something pretty special," she said. "This book I was reading said they can see a mouse from a mile and a half away."

She reached Erika Wilson, who tapes the weekly "Voice of the Naturalist" phone report that local birders rely on for good sightings.

"As soon as she convinced me she had peregrines, I jumped in my car and went out there," Wilson said. "I think this is so neat!"

One reason for her joy is that Washington seemed the exception among big cities in not having baby peregrine.

Thanks to a captive breeding program that began two decades ago, the species is recovering so well that federal officials began the process this month of removing the peregrine falcon from the endangered list.

There's been a breeding pair in Baltimore since the late 1970s, nesting on a skyscraper. New York City has more than a half-dozen pairs. Even some smaller cities such as Roanoke have them.

The Chesapeake region—from the Blue Ridge to the bay—has more than two dozen peregrine pairs, according to Craig Koppie, a biologist with the U.S. Fish and Wildlife Service in Annapolis.

When he went out to see the birds at the National Shrine last week, Koppie spotted the young falcon catching insects. Then he watched it dive across Michigan Avenue—swooping through morning rush-hour traffic—going after a smaller bird. (Best viewing is in the morning, especially in hot weather.)

All the evidence isn't in, but Koppie believes that the parents are the Thomas Circle peregrines. Despite their name, which means "wanderer," peregrines that live in this region often stay in a territory encompassing a few miles.

Saturday, Koppie used a pigeon lure to trap the young falcon in a net. He banded it for identification, so scientists can monitor how it's doing. He checked it for parasites and pronounced it in good health.

Then, as mother falcon watched, he released the young bird into the air.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be able to speak in morning business for up to 15 minutes.

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

Mr. ASHCROFT. I thank the Chair.

WELFARE REFORM

Mr. ASHCROFT. The question that this body will soon address in a formal sense is a question that has been titled welfare reform.

In our debate, we will hear a lot about numbers. We will hear about how much the system costs, about the share of the Nation's output that it occupies. But this debate, properly understood, is not a debate about numbers. It is a debate about lives, the lives of people who are trapped in the web of the Washington-knows-best, one-size-fits-all welfare system, the lives of the people who are welfare's casualties.

Today, we have a welfare system that was designed with the best of intentions but has given to the poor the worst of all possible worlds, a world of despair where no future is seen, a world of no opportunity where advancement is virtually inconceivable, a world of no family, no support, no nurturing or care from loved ones, a world in which people are raised by welfare and fed through food stamps but they are starved of nurture and they are deprived of hope. The results of this kind of system are very frequently tragic.

It is my intention in the days and weeks to come to highlight this human side of the welfare system. I wish to share some situations that tell us the real tragedy of welfare. Some of the cases are of children who have been killed or neglected. Some are testimonies of people who are trapped in the system. But all of the stories are real, all have been documented in the mainstream press, and they are all stories which we should remember as we debate the statistics and the numerics of welfare, for we must remember the human costs of welfare.

For 30 years and more, we have been told that all we need to do is spend more money. We have been told that we would be able to solve the problems we faced if we simply had enough resources. We have been told that Government, particularly Washington, has all the answers. We have been told that Washington knew best how to help.

The facts are in. The evidence is conclusive, and it points to the fallacy of the argument, for today there are more people in poverty than ever before. There are more children being abused and killed. There is less hope and opportunity for those who are trapped.

I wish to share with you some case stories that illustrate this and that should motivate us to change the way we address the problem of those who need hope and need opportunity and who need our assistance.

I wish to share with you a rather shocking story today, an atrocious story of Ariel Hill. Hers is the body that lies in this casket that is being lowered into the ground in this picture on my left. It is a tragic picture.

According to the reports in the Chicago Tribune, Ariel came into the world on Christmas Eve of 1992, 1-month premature. She was the second of twin children. Her parents were 22-year-olds who had dropped out of high school and did not have jobs. Her mother had her first child as a teenager. Her father grew up on welfare. Ariel had three other siblings in diapers at the time she was born. There were three other diapered children in the family. They lived in a squalid, roach-infested, one-bedroom apartment in public housing, isolated from friends and relatives.

When police entered the home, dirty clothes and scraps of food were strewn about, giving the apartment the stench of decaying garbage. Both of the parents used drugs. The main source of income was the $900 per month in public aid checks and the food stamps they used to purchase their meals.

When the investigators went into the apartment, they found the welfare dollars for each child listed on a scrap of paper. It is a tragedy when the human resource of this Nation, the future of America, is valued in terms of its capacity to claim welfare benefits. This was a family trapped in a system without hope, without future, without a way out.

Ariel died on May 12, 1993, less than 6 months after she was born. Her body, weighing less than 7 pounds, had been malnourished and scalded under hot tap water. Ariel's parents were punishing her by refusing to feed her, starving her 5-month-old body. This program of punishment finally peaked on May 11; 30 hours later she was dead.

According to court testimony, Ariel's mother was awakened by the daughter's crying that afternoon. Ariel needed to be changed. Her mother was so angry at being interrupted in the afternoon that she put the infant in the sink and began to burn her with hot water.

Police sources later told the Tribune that Ariel's mother was so upset because she was having difficulty keeping up with her responsibilities as a mother. She had not had much sleep in the last few days, the officer said, with five kids and all. As Ariel was in the sink under the hot water, her twin brother, Adrian, began to cry in the other room, and Ariel's mother left to look after Adrian, leaving the infant in the hot water for approximately 5 minutes. The mother believed that Adrian was healthier because he was a better baby.

By the time she returned, Ariel's skin had been badly burned and was beginning—well, her mother put hot butter on the wounds but did not seek medical attention because she did not want to deal with the division of family services. It was not until the next

evening that Ariel's mother and father noticed that Ariel was no longer breathing, and they called 911.

When Ariel was rushed to the Children's Memorial Hospital, she was pronounced dead on arrival. According to experts, her injuries were likely aggravated by her malnutrition, perhaps to the point where she was unable to cry. Ariel also was found to have bruises around her eyes and on her forehead. One of the examiners said there was nothing to her, absolutely nothing to her at all.

According to the Tribune, at her funeral, Ariel's body was covered in a light pink dress and bonnet. Her casket was small enough to fit in the little red wagon that she was too young to play with.

Mr. President, in the days and the weeks ahead, there will be those in the Senate who will take to the floor and argue that what we need is to reform the current system.

I submit to you that unless we want tragedies like this, we need to replace the current system, not reform it. We rearranged the deck chairs on this welfare *Titanic* in 1988, and the skyrocketing record of welfare participation and tragedies, such as this one, indicate to us that reformation is not enough. This is no time for half measures. This is a time to focus on those in need and to realize that Washington never has had the answers and probably never will.

What we need to do is to move people from hopeless governmental dependence to hopeful economic independence, from the grasp of a perverse system of Government programs to the embrace of the loving and caring communities and the limitless opportunities of America.

Our welfare system has been weighed in the balances and found wanting. The prisoners in the war on poverty have been the poor themselves. We must revamp this system so thoroughly that reform cannot characterize the way we treat it. It has to be replaced. It has to be replaced with a system that will allow for the States to have full freedom to implement remedies that will reduce this problem, that will slow illegitimacy instead of grow illegitimacy. It has to be reformed in a way that will stop the incentive for additional births, illegitimate births, and the continuing payment of more and more for those who will bring individuals into the culture with less and less responsibility.

Our effort to save ourselves from the human tragedy that the casket of Ariel in this picture represents has to be a good-faith effort that confesses that it is time to let the States and communities tailor programs to meet the real needs of America. As I indicated earlier, over the next week or so, I will be talking about the welfare system and the fact—undeniable fact—that it is so badly broken that it is tragically destroying the lives of citizens of this land.

Welfare should be a hand up, it should be a way of moving from one standing to another. It should not be a way of ensuring that an individual trapped in a system stays there not just for his or her life, but condemns future generations to a similar existence of tragedy and pain.

If America has a virtue, it is a virtue of opportunity, it is a virtue of hope. We must make sure that the welfare revisions, the replacement of this welfare system in which we will engage in the days ahead, always includes the components of opportunity and hope, those which have been so desperately missing, those which are all too frequently buried as the mistakes of welfare are dealt with under the current system.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

WELFARE REFORM

Mr. DORGAN. Mr. President, after listening to my colleague on the subject of welfare reform, I hope that in the coming days we can have an interesting, thoughtful debate about welfare reform on the floor of the Senate. Much of what he described as a remedy I would support. It is, I suppose, useful to describe the failure of the welfare system through the image of a casket, a symbol of a system that does not work.

There are many pictures that one can use to describe the current welfare system. The only disagreement I have with the previous speaker is the notion that somehow the difficulty with this system is that it is administered by the Federal Government. As most of us in this Chamber know, the current welfare system is largely administered by the States and locally. There is plenty wrong with it. That's why we have on our side of the aisle in the Senate constructed a welfare reform plan that I think makes a lot of sense. It is called Work First.

I say to all those who come to the floor to talk about welfare reform and the need for a crusade against teenage pregnancy and a whole series of other reforms that we must embrace in the Congress, that we should also understand our responsibilities when the appropriations bills come to the floor of the Senate.

Yesterday, I saw the results of a bill which would cut nearly one-third of the funding from the Bureau of Indian Affairs. The Bureau of Indian Affairs is an agency of the Federal Government that can learn a few things about good administration and effective use of taxpayers' dollars. But as a result of where I think spending cuts have been proposed in some of the appropriations bills, especially with respect to native Americans, we will see some of the most vulnerable people in this country suffer some of the largest budget cuts.

I can bring a picture to the floor today of a young woman from Fort Yates, ND, who at age 3 was placed in a foster home by a caseworker who was handling 150 separate cases. She went to a home which had never been previously inspected by the caseworker and, as a result of going to a home where alcoholism and parties were the norm, this young girl during a drunken party was beaten so severely that hair was pulled out of her head by the roots. Her arm was broken. Her nose was broken. This is a 3-year-old young girl consigned to a foster home by a caseworker who was handling 150 cases and could not bother or did not have the time or the money or the resources to check the homes she was sticking young children in.

I say to somebody who wants to talk about reform in this system, to somebody who believes that one caseworker ought to be able to handle 150 cases, you are consigning the children in those cases to the kind of harm that occurred to this 3-year-old, physical harm from which she will probably never fully recover.

Look into the eyes of Tamara someday and see what was visited upon this young lady, because there was not enough money to hire the two, three, or four caseworkers to check the houses in which they were going to put these kids.

When we talk about welfare reform, we talk about our obligations to people and then say we do not have enough money for social workers to take care of kids, that is not much reform, in my judgment. We say we cannot afford to enroll kids in Head Start, and that we cannot find enough money for WIC. Part of reforming this system is also to understand our obligation to kids and our obligation to some of the most vulnerable people in this country.

I can show you an office in this country where there are stacks of paper on the floor this high of reported abuses against children, of sexual and physical abuse, that have never been investigated—not even investigated. There are reports that a 3-year-old or a 5-year-old or a 7-year-old has been sexually abused that have not even been investigated. Why? Because they do not have people to go out and investigate. And so, today, a 5-year-old is probably at a home where a previous report has

been made of sexual violations against this child or of physical abuse against this child. This child is at risk today and every day because somehow there is not enough money to pay a social worker to go out and investigate the reports.

Any country as good as this country, that can afford to find the resources to have caseworkers and investigators to help protect children who are living in the grip of poverty in this country and who are living in the saddle of fear, and in some of the circumstances that I have seen and I think others have seen, has something wrong if its priorities do not include full protection for these children. In any discussion about reform of our welfare system and in any discussion about our obligations as they relate especially to appropriations bills that come to the floor, I hope will include a full discussion among those of us who have different thoughts about our obligations. I hope to be an active participant, because I have some very strong feelings about what is wrong in this country. We will find many areas of agreement. But to talk about reform and then deny the basic resources necessary to hire caseworkers to protect the lives of children who are gripped by fear and poverty and live day-to-day fearing for their safety is not a priority that I share. I believe the priority must be for us to decide that it matters, we care, and we will do something about it.

Mr. President, we will soon begin discussing specific proposals on how to reform the Medicare system. I do not know exactly when we will discuss them. I heard the majority leader discussing the schedule a few moments ago. I intend to say to him in a meeting with my colleagues soon that I am not very impressed with the schedule. He has an enormously difficult job, and I understand that. But if you are trying to raise a family and work in the U.S. Senate and find that at 8, 9 o'clock every night, you do not know whether there are going to be more votes, in my judgment, there is a better way to do things. I hope we can find a schedule that allows us to do our work in the Senate and still participate in family life, as well. That is a subject for another time and one that a number of us hope to talk to the leadership about on both sides of the political aisle.

When we talk about the issue of Medicare in the coming days —I was noticing today, on the 30th anniversary of the Medicare bill, that the newspaper, USA Today, has an ad by the Republican Party in it. It says, "Too Young to Die." There is a tombstone on the ad. "Medicare 1965–2002." It has a Medicare pledge called The Republican Pledge to Save Medicare. It says, "If Clinton lets Medicare go bankrupt, you can keep your existing coverage, but only for 7 years. If Clinton lets Medicare go bankrupt, you can keep your own doctor for only 7 years." It goes on at great length. This from a party, 97 percent of whom did not support Medicare in the first place. They always opposed Medicare. They fought to the death here to try and prevent a Medicare Program from becoming a part of our law in this country. Now, on the 30th anniversary, most of them want to love it to death.

Thirty years later, has Medicare worked? You ask some 75-year-old person who has new knees, or a new hip, or who has had cataract surgery and is not consigned to blindness or a wheelchair, or who has had open heart surgery. Ask them whether Medicare has worked and if they are free from the fear of whether they will have health care when they grow old.

Ninety-seven percent of our senior citizens are covered with health care coverage. I am proud of that. Before Medicare, less than half of the senior citizens had access to health insurance. Now, almost all of them do. Is that an accident? No; it is not. It is because people in this Chamber in years past had the vision to say we ought to put together a system that frees senior citizens from the fear of when they reach the advancing age of lower income and more health problems, frees them from the fear that they may not be able to get medical help because they do not have the money. We put together a Medicare Program. I was not here then. But I salute those who led the fight for it in the face of opponents that called it socialism, total socialism.

Well, it is not socialism that the Republicans say they now support Medicare. It is a Medicare Program of which I am enormously proud.

This country spends too little time celebrating its successes. We have had a lot of successes. We spend most of our time talking about failures and what is wrong. The Medicare Program is a success. I am proud to be a part of the political party that fought for it in the face of enormous opposition to create it, and I am proud to be a part of the party that this week celebrates its 30th birthday. Does it have some problems? Yes. There are 200,000 new Americans who become eligible for Medicare every single month. That is the graying of America. There are more elderly in America every month. Health care costs are increasing for everything, including for Medicare.

So, there are some financial problems. But the majority party in Congress has, coincidentally, said in their budget plan for this country this year that they want to have a substantial cut in Medicare funding that is almost equal to the cut they proposed in taxes. Now, they propose that we have what is called a middle-income tax cut of roughly $270 or $250 billion. They propose almost an identical cut for the Medicare Program. The so-called middle-income tax cut is an interesting one. The only details we have of the tax cut comes from the House of Representatives. It goes like this—and it would not surprise anybody, I suppose—families under $30,000 a year get $120 a year in tax cuts; families over $200,000 a year get a tax cut of $11,200 each year. It looks to me like that is kind of a "cake and crumbs" tax cut—cake to the rich, crumbs to the rest. That is not surprising. We have seen that year after year from the majority party.

But it seems to me that if you have a program that works, that is successful, for whom we now celebrate 30 years of success, like the Medicare Program, to suggest substantial cuts in Medicare funding that, coincidentally, equal the proposals to cut taxes, mostly for the wealthy, we do not do this country any major favor.

It seems to me that what we ought to do is evaluate our successes and find ways to strengthen them, not weaken them. There are those who say Medicare turns 30, but it may not live to see 37, and the Republicans are the ones who will save Medicare. I say: Look at the record. Who created Medicare? Who has supported Medicare? Who will nurture Medicare well into the future as a safe, solid, and financially solvent program?

I have a piece of copy from something called Luntz Research Companies by the Republican pollster, Frank Luntz. It says, "Everything You Wanted To Know About Communicating." It was not sent to us. It was sent to the Republicans. It is about a 10-page missive on how they should communicate to our country about Medicare. It says, "Seniors are very pack oriented, and are very susceptible to following one very dominant person's lead." And then for page after page it says, "You must appear to be bipartisan." It does not say you should be. It says, "You must appear to be bipartisan." Page after page is instructing Republicans how to deal with this Medicare problem. What problem?

The problem is they are proposing a very substantial cut in Medicare that is almost exactly the same size as the tax cuts they proposed for the wealthy. It is a problem because senior citizens, I think, in most cases, are scared to death that a program that they think is successful and they have relied on, that has freed them from fear of growing old and not having health care coverage, is about to be dismantled by some who carelessly tell us their real interests. We have some around here who still say that we ought not have the Medicare Program, that we should go back to the "good old days" when half of senior citizens had no health care coverage at all. They do not quite say it that way, but that slips out from time to time. That is their philosophy. They think Government, essentially, should not do anything.

Again, there are 10 pages or so of discussion about exactly how to talk your way out of this situation. It says, "For too many seniors it will be the last word that ultimately sways them." So make sure you are the last person who talks to them, because that is who they will believe. You know, all of us have stories about our constituents—senior citizens who we have met, and whose life is substantially improved by this program of which I am very proud.

I recall a woman from Mandan, ND. I was at a town meeting in that small community in my home county. She stood up, and she must have been in her midseventies. She said, "I have a new knee and a new hip. I had cataract surgery. I want to tell you, I feel like a million dollars." Somebody else in the crowd said, "Well, maybe you cost $1 million."

Not quite. These medical procedures are not that expensive. I thought to myself, is it not remarkable? If this woman had even come to a meeting 50 years ago, she would have been there in a wheelchair and would not have been able to see much because her knee was gone, her hip was gone, and she had cataracts. Now, through the modern miracles of medicine, she feels like a million dollars.

First of all, this is a remarkable case of breathtaking achievement, attributable to the men and women of vision in our country in the medical field who produce these miracles—things that we had never before expected to be done. Then the Medicare Program provides access to that new treatment for America's senior citizens. It is remarkable.

I think most would agree that what we have done in this country in medicine, generally, and for senior citizens through the Medicare Program, is an extraordinary thing. We ought not decide at this point to weaken those kinds of things that represent successes in America.

I want to say again something I have said, I suppose half a dozen times, that people are tired of hearing. It is important. We have so embraced in this country talk about failure and talk about what does not work and what is wrong and scandal, that we just are not willing to talk about success.

It is why, for days, I have talked during the regulatory reform debate about air and water. The air and the water in this country is cleaner than it was 20 years ago. We now use twice as much energy in America than we did 20 years ago. We doubled our use of energy. Yet, we have cleaner air, cleaner rivers, cleaner streams, cleaner lakes.

Now, why would that be the case? Would it be because those who were polluting America, the big polluters, decided one day to just turn off their chimneys and to stop throwing chemicals into rivers, and to stop blowing pollution into the air because they just decided it would be good business? No, that is not why.

It is because we put in place regulations that say you cannot pollute. Clean air and clean water are important to Americans. It is important to our health. It is important to this Earth. You have to stop polluting. That is what we said.

Maybe we ought to celebrate a bit that we are successful after 20 years. Go back to the 1970's and the first Earth Day, and what you would find is a notion that we are consigning ourselves to a future of increasingly dirty air and increasingly dirty water, and there is not a darned thing anybody can do about it.

The Hudson River was set on fire, so we had the prospect and the sight of a river burning. Why? Because it was so terribly polluted that you could set it on fire. You could light the water.

Back in the 1970's, the notion was that things are so bad, they will get worse, and there is nothing we can do. Twenty years later, we doubled our use of energy, and those rivers are cleaner and the air is cleaner.

There are those who stand up and say, "the Federal Government cannot do anything right. We hate the Federal Government. Turn it all back to the States." Some say, "let's block grant the food stamp program. Send it back to the States." Apparently, hunger is not a national priority anymore for some. Some of what the Federal Government has done has been enormously successful. We ought to understand that.

One part of that is Medicare. That is why I came to the floor today, to talk about the Medicare Program. We will have a fight. That is what democracy is about—debate. We will have a debate about the future of these programs, including Medicare. It is a debate I look forward to.

We must fix Medicare with respect to its financial solvency for the long term. That is not a fence that you cannot get over. It is, in my judgment, not a difficult thing to do. But we should not, in ways that some suggest, continually try to weaken a program that works so well.

No one, in my judgment, should lament the fact we are having this kind of debate about whether we spend money on the Medicare Program, whether we give a tax cut to Donald Trump, whether we build star wars—all of which are proposed. No one should lament that. The political system is constructed to have that kind of a debate in our country.

President Kennedy used to say, "Every mother kind of hopes that her child might grow up to be President, as long as they don't have to get involved in politics." The irony is that the political system is a system in which we debate these issues of the day for our country and its future.

I look forward to the coming weeks as we debate the future of Medicare. I hope that this full-page ad in USA Today, with a tombstone for Medicare, in which the Republicans pledge to save Medicare—a political party that opposed it with every bit of their breath and energy 30 years ago—I hope this represents a determination by the Republicans to join us and say Medicare should be available for the long term for America's elderly who need it, not with less coverage and higher costs, but instead with good coverage at modest cost, with a program that celebrates America's success.

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

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

ON THE RETIREMENT OF MARIAM BECHTEL

Mr. DOLE. Mr. President, I rise today to extend my heartfelt thank you to Mariam Bechtel who is retiring after 17 years of loyal service to the Congress.

Mariam has served my Senate office since February 1984. Additionally, she served in the office of Congressman Page Belcher from Oklahoma for 6 years before joining my staff.

Everyone who has come in contract with Mariam Bechtel, and I know that she has many friends throughout the Congress, knows of her warm and cheerful manner. When Members needed a room to host a reception or meeting, they knew that Mariam was the one to call. When Kansans needed to touch base in Washington, they knew to call Mariam.

Mariam has always gone that extra mile—to help a fellow Senator, their constituents, and of course, Kansans.

I ask my colleagues to join me in wishing Mariam and her husband Charlie all the best in their retirement. And thank you Mariam for your dedicated service to me and to the Senate.

PRASAD SHARMA

Mr. DOLE. Mr. President, I rise today to say farewell and thank you to Prasad Sharma who has served my office as a legislative correspondent and staff assistant for the past year. Prasad was recently accepted by the Emory University School of Law, a high honor which he richly deserves.

A Kansan himself, Prasad has been a real asset. He has kept the people of Kansas informed about important events in Washington, served a vital role on my defense and national security team, and Prasad has always been someone to rely on when things needed to get done.

I ask my colleagues to join me in wishing Prasad Sharma all the best at Emory and in his future endeavors. He is someone I know we will hear a lot more from in the years to come, because he is an outstanding young man.

ELDERCARE

Mr. DOLE. Mr. President, this week marks the 30th anniversary of Medicare—the Health Care Program that currently serves 4 million disabled Americans and about 33 million elderly Americans.

Anniversaries are normally a time for celebration. But, this 30th anniversary is a time of great concern.

As we all know, the Medicare trustees, three of whom are members of the President's Cabinet, have warned us that, at best, Medicare has only seven more anniversaries left before going bankrupt.

Mr. President, I believe one of the most important responsibilities of this Congress is to preserve, improve, and protect Medicare so that it does not go bankrupt and will continue to be there for Americans for the next 30 years, and the 30 years beyond that.

Before I look to the future, however, I want to take just a minute to look to the past.

When Medicare was debated in Congress in 1965, I voted against it.

And there are those at the Democrat National Committee who seem to believe that vote is either proof that I am out to gut Medicare, or that it disqualifies me from participating in this debate.

I only wish they would devote as much energy to the search for solutions to Medicare's current fiscal crisis, as they do to questioning the motives of others.

My vote against Medicare was not a decision I made lightly. I knew my vote would lead to a round of criticism. But in the end, I voted against the legislation for several reasons.

The first reason was because I had concerns that we would be establishing an entitlement for many Americans who truly were not in need of Government assistance. We all know that by their very nature, entitlements are designed to grow. And, as we have seen over the past 30 years, the Medicare entitlement has done precisely that.

In 1965, when Medicare was enacted, the House Ways and Means Committee predicted that the part A portion would cost $9 billion in 1990. Needless to say, they were wrong. By 1974, we were spending $9 billion—just 8 years after Medicare's passage. This year, Medicare part A will cost $158 billion—58 times the amount it cost in its first year.

Second, I was concerned that this growing entitlement would be financed either through higher taxes or deficit spending, and that both of these options would compromise the futures of generations to come. Again, by 1974, the tax rate to finance the program was already twice the initial projection.

And the third factor behind my vote was that I shared many of the concerns articulated by the then President of the American Medical Association, Dr. Leonard Larson, who said:

> The administration's medical care proposal, if enacted, would certainly represent the first major, irreversible step toward the complete socialization of medical care. The bill does not provide insurance or prepayment of any type, but compels one segment of our population to underwrite a socialized program of health care for another, regardless of need.

Mr. President, the AMA at that time put forward an alternative proposal, called Eldercare, which I supported.

I must say as I look back on that day in 1965 and on the weeks before the debate, and I have gone back to check the CONGRESSIONAL RECORD and some of the statements made by my colleagues, Elder Care had many more benefits than Medicare. We covered prescription drugs in Elder Care, which are still not covered today under Medicare. In addition, that plan would have cost less because it took into account the beneficiaries' ability to pay.

Would Medicare be in better shape today had my concerns been addressed at its creation? I believe it would. And I also believe that if nothing is done and Medicare goes bankrupt, the American public will not look back at 1965 to decide where to fix blame—they will look back to 1995.

So, where do we go from here?

Mr. President, we cannot turn back the clock. But, we can learn from the past. And, that means doing what is necessary to improve Medicare so that it can move successfully into the 21st century.

Despite the rhetoric coming out of the White House and the Democratic committee, Republicans, including myself, do not support cutting Medicare. We recognize the need for Medicare's growth, and our historic budget resolution allows for an annual growth rate of 6.4 percent. Under this agreement, Medicare spending will top $1.6 trillion over the next 7 years. In addition, the trust fund's solvency will be ensured through the year 2005.

Mr. President, Republicans are also interested in creating more choices for Medicare beneficiaries. Fee-for-service health care may be great for some, and they should be able to keep that if they choose. But, there are other options out there now that may offer more benefits but are unavailable to Medicare beneficiaries. I would like to see these choices extended to all Americans.

Mr. President, the committees of jurisdiction in the House and Senate are currently working reconciliation legislation, that will include proposals to preserve, improve, and protect Medicare. As required by the budget resolution passed by Congress, this plan must be reported out of committee by September 22.

Some on the other side of the aisle, however, have requested the details of this legislation be made available before the August recess.

While we like to accommodate our colleagues as much as we can around here, the fact of the matter is that this is an extraordinarily important piece of legislation that cannot be slapped together a month ahead of schedule. The chairmen of the committees of jurisdiction have assured me that their staffs will work throughout August to give this bill the careful attention it deserves.

Mr. President, we have solicited ideas from the White House since April, when we first received the Trustee's report. Unfortunately, we have had no response, which was made our job that much more challenging.

But, as I said before, that does not alter our determination—I think it also includes many of my colleagues on the other side, I would hope—to preserve, improve, and protect the Medicare Program so that it will continue to be there for those who rely on it today and for those who will do so for many years in the future.

HISTORICAL HIGHLIGHTS OF THE MARINE CORPS IN THE KOREAN WAR: ED PETSCHE AT THE CHOSIN RESERVOIR

Mr. GLENN. Mr. President, I wanted to rise today to make some short remarks here on the floor about a special person in Toledo, OH. It is Edwin F. Petsche, who was in my office just a couple of days ago. I remarked about him on the floor of the Senate yesterday. It had been my great honor to award him a Purple Heart that was long overdue. Ed Petsche took part in the withdrawal from the Chosin Reservoir in Korea, back about 45 years ago, and had never received that Purple Heart. I mentioned it in passing yesterday in connection with our remarks about the dedication of the Korean War Memorial. I will say more about Ed Petsche in just a moment. But let me just briefly set the stage.

In the annals of Marine Corps history there are some things that stand out: Belleau Wood, Iwo Jima, raising of the flag on Mt. Suribachi, and a number of events, and notable times of combat in various wars. You cannot compare one with another, for they all required great sacrifice. But I wanted to pay attention to this particular moment and set the stage for what happened out there. The dedication this week of the Korean War Memorial is a time for all Americans to reflect upon the sacrifices of our many veterans of that conflict—Ed Petsche and many others.

Many younger Americans are hearing this week for the first time the names

of Korean cities and campaigns that were household words in America almost a half-century ago. The name of one geographical area in Korea will remain forever enshrined in the pantheon of Marine Corps history and that is the Chosin Reservoir.

In late October 1950, the Joint Chiefs of Staff authorized operations north of the 38th parallel in Korea.

Maj. Gen. O.P. Smith's spirited 1st Marine Division began to drive north toward the Yalu River in an effort to destroy completely the North Korean People's Army.

On November 2, 1950, the 7th, 5th, and 1st Marines moved out, in that order, from Hamhung, following a treacherous mountain route toward the Chosin Reservoir, the site of a large hydroelectric facility in northern Korea. By midnight the Marines were in heavy contact with the Chinese 124th Division, as the People's Liberation Army had just entered the war to assist the struggling North Koreans.

The 7th and 5th Marines continued their advance through both light and heavy enemy opposition, and were concentrated at Yudam-Ni by 27 November, while the legendary "Chesty" Puller's 1st Marines took positions along the route. The full weight of the veteran 100,000 to 120,000 man Chinese 9th Army Group then fell upon the Marines. The Chinese attacked during the night in temperatures approaching 20 degrees below zero, cutting the main supply routes, and isolating the Marines into four close perimeters. Although the vastly outnumbered Marines held their ground, the situation was very, very grave.

On December 1, General Smith ordered a breakout from the reservoir, which he termed an "attack in a different direction."

They went into retreat. They were surrounded. In any direction they went they contacted the enemy. So it truly was an attack in a different direction.

They were supported by the 1st Marine Aircraft Wing that flew and flew and flew nearly 4,000 sorties during the entire operation—4,000 sorties. The 1st Marine Division blasted its way through seven Chinese divisions and finally reached safety at Hungnam by December 12.

At the Chosin Reservoir, there was somewhere around 15,000 Americans involved. And out of that I think there were 13,000 casualties listed—in 10 days there were 13,000 casualties either dead or wounded during that advance back to Hungnam.

The Chosin Reservoir campaign cost the Marines over 4,400 battle casualties, including killed and wounded, and uncounted cases of frostbite and pneumonia. The Communist Chinese forces had suffered a catastrophe, however. The best count ever made was that there were some 25,000 Chinese communist dead—25,000 dead as they came out.

Well, I read that to set the stage for Ed Petsche, and to show that this was tough close combat. He was bayoneted. That is hand-to-hand combat. This is not shooting at people remotely with rockets and with missiles, or things like that. He was bayoneted, and left for dead; tossed on a pile of soldiers and left there for dead. And it may have been lucky that the temperature was so cold because it was said that the temperature froze the wounds on parts of his body and maybe protected them a little bit from having become infected any more than they were. But he was still alive and was groaning. Someone heard his groans, rescued him and got him out. And they finally got him some attention and got him out of there.

That is the preface to saying that when he was in the hospital in Japan, Ed, for some reason, never had the record set straight that would have gotten him his Purple Heart.

I wanted to give that little background because some 45 years later, Ed Petsche and his children and grandchildren were in my office a couple of days ago.

And I was honored on behalf of the Commandant to present to him his belated Purple Heart. And it was indeed an honor.

We lost a lot of people in Korea. And I know that we have made a huge effort with regard to Vietnam to make sure that the POW/MIA count, the bodies and the missing people there—that their records are brought to light and that their remains are brought back, even now 20-some years after the end of the Vietnam war.

In Korea there are some 8,000 that are still missing that we do not have records on, and do not have their remains. I know the President indicated a couple of days ago that he thought that we should be pushing to get a better accounting of what happened to those people in Korea.

I would also note in passing that we still have some 78,000 missing MIA's out of World War II.

Ed Petsche came so close to being one of those who died in Korea. But he survived, luckily, and has received his recognition, although too many years too late.

I guess to those whose loved ones still remain in Korea, whose remains were never brought back, I am reminded of the lines by Rupert Brooke in a book of poems called "The Soldier." He was an Englishman, and wrote about those who represented England in foreign fields and wars, and places all over the world. And sometimes their bodies were not brought back. He stated his belief this way, and I think it should apply to some of the ways we can look to some of our people too. He said:

> If I should die, think only this of me, that there is some corner of a foreign field that is forever England.

And I guess I would look the same way for our own people, the 8,000 who never came back, who never even had records on them brought back from Korea. With all the 54,000 dead that we had in Korea, many did not come back.

I guess I would say the same thing to our people, that they died, but think only this of them, that there is that corner of a foreign field in Korea that is forever America.

Wherever they fell becomes a part of this country, whether it is legal on the international boundary chart or not.

Ed Petsche represents the people who were out there. He was lucky. Although he came so close to death that he was tossed on a pile of soldiers and left for dead, he still survived and came back.

Out of that campaign, where he and the others came out of the Chosin Reservoir and came down to Hungnam, there were 17 Congressional Medals of Honor and 70 Navy Crosses awarded in just that one 10-day advance.

It is hard to believe the terrible things that they went through, not only the enemy and so many casualties all over the place. Almost the whole force became casualties; 13,000 casualties out of the 15,000 forces involved with 4,400 dead, as I indicated a little while ago.

So it is these things that we remember during this week of commemoration regarding what happened in Korea so many years ago.

I wanted to pay special tribute to Ed Petsche because he represents the best of the people we sent out there. He was 19 years old at the time, and almost died out there, but came back, and was never recognized for his action. And I can say very truly it was indeed a great, great honor to be able to present the Purple Heart to him, although it was some 45 years later.

It was a pleasure to meet his family. We wish him the very best and we are glad that finally the "Forgotten War," as it has been called all through the years is forgotten no more. It has a memorial that will commemorate forever, or will memorialize here in Washington forever, the sacrifices that were made by people like Ed Petsche.

I am honored to be able to pay him tribute on the floor of the U.S. Senate today.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I would like to compliment the Senator from Ohio on that very moving and fine presentation, particularly this week when we are honoring the Americans who fought in Korea in a far-away place but, as the Senator pointed out, a place that will always be in the memory of Americans for the sacrifice of so many of our troops from all of the services.

I might note to the Senator from Ohio that I received some time ago a

gift, a small gift but a very meaningful gift, from a survivor of Chosin. It is a belt buckle to be worn on a western belt, and that is what I always remember when I wear that belt. It reminds me always of the sacrifices that were made by those at Chosin, and it is something we should never forget. Certainly the Korean War Memorial will now help us to remember that very fine hour in American history despite the casualties, the suffering and sorrow that attend it. So I compliment the Senator from Ohio on his very fine remarks.

NATIONAL DEFENSE

Mr. KYL. Mr. President, I would like to address a defense subject, given the fact that the Senate is likely to take up the defense authorization bill next week. I am going to include in my remarks a reference to North Korea. So, in a sense, the comments of the Senator from Ohio and all of those who have remarked on the sacrifices of Americans in Korea now 40 years ago, 45 years ago in some cases, have a bearing on what we are doing with our national defenses today and some of the issues we will be debating in connection with the defense authorization bill.

Specifically, what I wish to address for a few minutes today is the implication of a recent CIA report which warned us that about 20 nations by the end of this century will have the capability to deliver a weapon of mass destruction far beyond their borders through the missile delivery system, a ballistic missile delivery system that is either being indigenously produced in these countries or is being acquired by purchase from another nation and that that threat is a very real one not only for U.S. forces deployed abroad but also for our allies and eventually, not too long after the turn of the century, for the continental United States itself.

In the Persian Gulf war, fully 20 percent of the United States casualties were as a direct result of the Scud missile attacks by the Iraqis. As a matter of fact, the single largest number of American casualties was 28 in one Scud missile attack on a barracks in Saudi Arabia. So this is not a threat that is hypothetical or in the future. It has already occurred to American troops in this decade. And yet too many have been blind to the reality that this is an emerging threat, that the ballistic missile with a warhead of mass destruction, either nuclear, chemical, or biological or even high explosives, is the weapon of choice of the dictators and would-be aggressors around the world today. Fully half of those 20 nations that the CIA report refers to are either in the Middle East or in Southeast Asia, and clearly our interests and our allies' interests are implicated in those regions of the world.

North Korea is a good case in point, particularly since our focus has been on Korea this week. One of the reasons that our policy with respect to North Korea has been so touchy, so tentative is because North Korea today possesses a very real threat to literally millions of South Koreans and several thousand Americans in Korea.

Today, in just a matter of hours, North Korea could kill thousands of people in Seoul, Korea, because that is how close Seoul is to the reach of the North Korean guns, their long artillery. Ballistic missiles are simply a much more robust system than long artillery, and the impact can, of course, be much more devastating, but the analogy is very true.

One of the reasons that we are not tougher on North Korea today, that we cannot dictate the terms to North Korea, that we cannot tell them to stop producing weapons grade plutonium for the development of nuclear weapons is because we do not have leverage over North Korea. We cannot threaten them militarily, and as a matter of fact we are susceptible to a North Korean attack. We have no means of stopping the artillery from North Korea, the kind of attack that would occur on Seoul and that would also cause casualties to American troops in South Korea.

What it tells us is that in the conduct of foreign policy we cannot be held hostage to foreign powers. We cannot allow ourselves to be defenseless against the weapons they would deploy against us or else we are neutralized in the conduct of our foreign policy, and that is what has largely happened with respect to North Korea. It will be orders of magnitude worse if and when North Korea obtains the kind of long-range missiles and weapons of mass destruction it is working on today.

North Korea is one of those nations that is indigenously producing longer range ballistic missiles, and public reports assert that shortly after the turn of the century one of those missiles will even be able to reach the continental United States, specifically the State of Alaska.

It does not take any reach of the imagination to predict what would happen if North Korea threatened Anchorage, AK, let us say, or one of our military bases in Alaska with a nuclear weapon if we did not do a certain thing or forbear from doing something that was in the interest of North Korea. And yet the question is what would we do about it, because we have no means of stopping that kind of attack.

It used to be that the threat of mutual assured destruction with the former Soviet Union was enough to deter attack by either nation because the thought of either nation sending everything it had against the other nation was simply too horrible to contemplate and neither nation was foolish enough to do that. But today the threat of mutual assured destruction does not work against these tinhorn dictators in countries like Iraq or Iran or Syria or North Korea and similar places, Libya—I will not extend the list—because of the characterized kind of leadership of those countries. But the fact is they have not been friends of the United States; they have been antagonistic in the past. They have either now or are developing these systems and therefore are likely troublemakers in the near future. To be defenseless against them is to deny our responsibility.

Fortunately, we have it in our capability to begin developing the kind of defenses that would render these threats essentially meaningless and prevent us from being subjected to the blackmail that those threats certainly will entail in the future and hopefully deter attacks that, of course, would cause casualties either to our allies or our forces deployed abroad and eventually to the continental United States.

Both the House and Senate Defense authorization bills begin to get us back on track to the development and deployment of effective theater ballistic missile systems and do the work that will eventually enable us to deploy an effective national defense system, that is, a system that would prevent attacks on the United States.

And so it is important for us, as we begin to debate this subject next week, to focus on what the Armed Services Committee will be recommending and why we should not adopt some of the amendments that we know are going to be proposed that would weaken what the Armed Services Committee has recommended with respect to the development and deployment of these theater ballistic missile systems.

In the past, Mr. President, there have been attempts to reduce the funding. Well, this year's funding level, I will note, is less than the Clinton administration's recommendation for this year in the 5-year plan that was submitted last year. So I hope we will not see attempts to decrease the funding for ballistic missile defenses.

There is also a question about dumbing down our systems. The Patriot missile was not as effective as it might have been in the Persian Gulf because it had earlier been dumbed down. We did not make it as effective as we could have. There is a belief today that because the Russians would not like to see a robust defense, a defense that might even prepare the way for an effective defense against missiles they might send our way someday, therefore we are going to arbitrarily limit ourselves so that the systems will not be as effective as they might be.

One of the arguments will be, if we make them as effective as they could be, they might violate the ABM Treaty.

This bill which will come to the floor next week has definitions built into it that clearly permit us to test in a certain mode, and if we test beyond that mode, it would be deemed testing against a strategic system, which presumably would be in violation of the ABM Treaty, and so we will not do that. But if we try to add additional requirements such as speed limits on American missiles, making them not as effective as they might otherwise be, we will be dumbing down our system, making it less capable than it should be, than it needs to be.

Therefore, I urge my colleagues to reject any amendments along that line.

Finally, what we have done, since eventually there could be questions about whether a national system should have one or more sites to protect the continental United States, we have established a committee which will advise the Senate and the administration on what areas of the ABM Treaty we may wish to modify in order to deploy an effective system to defend the United States. The treaty only allows for one system today. We may need to deploy in more than one place. Surely, if that is in the United States national interest, we would seek to modify the treaty and ask the Russians to agree to that with us.

We are not violating the treaty; we are simply preparing for the day when we may ask for changes to be made. The treaty is almost 25 years old and clearly was developed at a time when the Cold War was at its height and when the United States and Russia, or the Soviet Union, I should say, were depending on the doctrine of mutual assured destruction. That does not exist today. As so many of our colleagues are fond of reminding us, the Cold War is over. Of course, it is over.

We have to begin to think about the kind of defense we will need in the next century rather than focusing on a treaty that may have served us well in the past, though that is subject to some debate, but certainly does not provide all the things that we need or the only things that we need to protect us in the future.

So I hope that our colleagues will be agreeable to going forward with the study committee that is established in the Armed Services Committee mark that will come to the floor. I hope that they will believe that is a good idea and will go forward with that study.

Let me conclude by saying that I believe what the Armed Services Committee will be recommending to us will make a lot of sense; that it will begin to put us on the path to developing and ultimately deploying an effective theater ballistic missile defense, a system that will protect us if we have troops deployed in Korea or in Saudi Arabia or anywhere else in the world, a system that will protect our allies to the extent they wish to be protected. That is something the United States wants to cooperate in and ultimately a system that can be added to and modified to protect even the continental United States.

Surveys show that Americans today overwhelmingly believe that if a missile were launched against the United States, that we would be able to somehow intercept it either by some airplane-fired missile or some other missile we could fire or something in space. We know, of course, that is not true. We have absolutely no defense against a missile fired against us, whether by accident or in anger, whether by a terrorist nation that only has one or two missiles, or whether as in an attack by a country like the former Soviet Union.

It is time to start thinking how to deal with that threat today. It takes a long time to develop the systems to meet that kind of threat. That is why this bill begins to put us on the track that will enable us to defend ourselves, as well as our interests abroad, and it is a bill which will be deserving of our support.

I will be talking more about the bill and its specifics as we come to the floor to debate it, but I wanted to at least outline those concerns to my colleagues today.

Mr. President, those conclude my remarks about the defense bill before us next week.

EXTENSION OF MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent that the period for morning business be extended until 2 p.m., under the same terms and conditions as before.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

TRIBUTE TO SENATOR JOHN GLENN

Mr. KENNEDY. Mr. President, I do want to join my colleagues in paying tribute to our friend and colleague, the Senator from Ohio, Senator GLENN. Yesterday he addressed the Senate about his service in the Marines during the Korean conflict and again today. I thought his statements and comments were as much a real tribute, not only to the men and the women who served in that conflict, particularly those who lost their lives, but also to his own very considerable service to this country in so many ways with which all of us in this Chamber are familiar. I think we are very moved and touched by his presentation.

NEW STUDY OF IMPACT OF MEDICARE CUTS

Mr. KENNEDY. Mr. President, a new study released today by the administration shows the impact of the proposed Republican Medicare cuts on seniors and health care providers in each State. The numbers are devastating. How could any Senator look at these numbers and support these proposals in good conscience?

This study is especially timely on the eve of the National Governors Association Conference in Vermont this weekend. All Governors must be asked what these proposed cuts will mean for seniors in their State and for the health care system as a whole. Here are just a few examples:

In my State of Massachusetts, over the next 7 years, seniors will be asked to pay an additional $4,300 for the medical care they need. A senior couple will pay $8,600.

In Florida, a couple will have to pay $8,800.

In California, the figure is $8,200.

In Nevada, the additional burden will be $6,000.

The figures vary, but the message is clear: an unfair, unaffordable burden on senior citizens in every State to pay for the tax cuts for the wealthiest Americans.

And those who need health care the most will pay even more. Senior citizens needing home health services will have to pay an average of $1,700 a year for this service alone, on top of the additional costs for all their other health needs. Seniors needing nursing home care will have to pay $1,400 more.

The impact on the health care system as a whole is even greater. In Massachusetts, the Medicare cuts will mean $9.5 billion less for health care over the next 7 years. Mr. President, that is an extraordinary figure, $9.5 billion less to the seniors in my State over the next 7 years. In Florida, the figure is $28.1 billion. In California, it is $36.4 billion. In New York, the figure is $18.1 billion. The deep Medicaid cuts in the budget will take even more from the health system and those in need.

These cuts will be passed on to elderly people, to those who are on Medicare—which is 97 percent of all of our seniors—with higher copayments, higher deductibles, and higher premiums.

Mr. President, I will include in the RECORD the detailed State-by-State breakdown of these proposed Republican Medicare cuts. Senior citizens in every State will suffer, hospitals and nursing homes will close, and the health care system will be of lower quality.

These numbers speak for themselves, but the impact goes far beyond mere numbers. Who speaks for the elderly widow, struggling to survive on a fixed income, who must now try to find $1,000 more a year to pay for the health care she needs?

Who speaks for the family who will now be forced to choose between medical care for their parents and a college education for their children?

Who speaks for the retired couple who finds that the savings of a lifetime must now be sacrificed to pay for the medical care that Medicare used to cover?

President Clinton speaks for them—and so do Democrats in the Congress. We will never let these cruel cuts become law. We will never let the Medicare trust fund become a slush fund for tax cuts for the wealthy. We will never let senior citizens be plundered for the benefits they have earned by a lifetime of hard work.

We do not have to redebate, hopefully, the reason for the development of the Medicare system. It is based and built upon a very simple and fundamental concept: that the men and women who have built this Nation, have made it the great country that it is, who fought in its wars and brought it out of the Depression, ought to be able to live their senior years in respect and in dignity.

It is recognized that a test of a civilization is how it regards its elders, what respect it pays them. To relieve our seniors from the anxiety and the pressures of seniors' health care needs, in the way that Medicare has done, is something which is of fundamental importance to all Americans. It is this program which will be, I believe, devastated, should these proposed cuts go into effect. Once again, we have to reiterate that the principal reasons for those cuts to go into effect is for the tax cuts that will be available primarily to the wealthy individuals in our country.

The fact is that there is $270 billion proposed for the Medicare cuts and about $245 billion for the tax cuts. So if you eliminated the tax cuts, you would be able to move ahead with the Medicare program in a way that would not present these kinds of burdens on our senior citizens.

Once again, Mr. President, I underline the obvious fact that all of us understand; and that is, when our citizens grow older and older, that their incomes generally decline and they are dependent upon Social Security and they are dependent upon Medicare. At a time when their incomes are declining is a time that their health care needs continue to grow. It is that fundamental concept that drove this country to adopt the health care and the Medicare systems: declining incomes, increasing health care requirements.

This chart reflects exactly who of our fellow citizens are really affected: 83 percent of the expenditures go to families with annual incomes of $25,000 or less; 21 percent of it goes to those with annual incomes of $15,000 to $25,000; 62 percent goes to those with annual incomes of $15,000 a year or under—men and women who are being asked, with the proposed Medicare cuts, to see a significant increase in out-of-pocket expenditures, copays, deductibles, and premiums. There are $9.5 billion for the close to 1 million of my fellow citizens in Massachusetts who benefit under the Medicare system.

I hope that when those Governors meet this weekend up in Vermont, someone will ask them how they are going to be able to explain these kinds of sizable cuts, and how they will explain them to the people who live in my State of Massachusetts, in the State of New York, the State of California, the State of Florida, and the State of Texas. We have seen that within Massachusetts the burden will be higher than the national average, as it will be in Rhode Island and Connecticut—the New England States. In these next several weeks as we are debating this issue, debating this proposal, those of us who believe and fought for this particular program are going to do everything that we can to resist.

I am sure that in my State of Massachusetts, there are the elderly widows who are wondering how they are going to be able to afford the additional out-of-pocket costs that will be required under the proposed Medicare cuts.

How are they going to be able to handle it? How are the American families going to handle it—the sons and daughters of those who are receiving Medicare today? These kinds of cuts are not only going to be devastating to the seniors, but to their sons and daughters who care and love their parents and have a great respect for the dignity of those parents. They are going to do everything they can, with scarce resources, to make sure their parents are going to be able to live with some dignity.

These kinds of cuts are not only going to be evident on the seniors, but they are also going to be a heavy burden on the working families in this country, who have lost real income in terms of wages over the last 15 years. This is going to come at the same time when those families are worried about educating their children. We have seen that under the Republican proposals, the cost of student loans is going to increase some 30 percent, and the total number of Pell grants that will be available to well-qualified needy children who can gain admission into the finest colleges and universities across this country but need the Pell grants to be able to continue their education, their program is being deteriorated. Those working families are going to have to make judgments about how much they are going to have to make up the out-of-pocket expenses for their parents, or whether they are going to educate their children.

We know what is going to happen to the families. These couples are going to have to make a judgment about how much they are going to pay out of their life savings, which was going to be used for their retirement.

Mr. President, these are obscene choices left for our seniors, our families, and our children. I daresay this debate is just beginning. It has not concluded. We will have an opportunity to get into greater detail on these measures on the floor of the Senate. But I hope, Mr. President, that the Governors of these United States—not only my State, but the other States—will be asked about the impact of the proposed Republican Medicare cuts on seniors in their States. This is going to be a matter of national debate and discussion. We can address in a responsible way the needs of the trust funds without seeing these dramatic cuts used for tax cuts for the wealthiest individuals and corporations. I say no to that. We will battle on the floor of the U.S. Senate, and we will battle with this President, who has said no to the proposed Republican Medicare cuts, and we will fight for our seniors because they have made this Nation the great Nation that it is, and we owe them no less. We owe them a great deal more.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MEDICARE

Mr. DOMENICI. Mr. President, I am sorry I could not be on the floor during the remarks of Senator KENNEDY with reference to health care in the United States, and in particular Medicare. By coincidence, unbeknownst that he would speak, I had prepared for myself to deliver today—since we are at about the 30th anniversary date of the passage of Medicare—a speech that I am prepared to give to the Senate. I believe I heard enough of the Senator's remarks that, at some point, I will depart from the speech and answer a few of the comments made.

I will start right off by saying that it is unfair to the senior citizens of the United States to talk about what might be, or how things ought to be, and not tell them how things are.

The fact of the matter is that the cornerstone of hospital health care for our seniors—Medicare—is in big trouble. And to make a speech about the seniors and scare them about the future, without telling them the truth, does not seem to me to be the right way to treat our seniors, who are filled with wisdom, understanding, and truly think this is a great Nation and would

like very much to do their share to try to fix some things that are going wrong.

So the No. 1 point is that there has been in existence a group of Americans who reviewed thoroughly the status, the financial status, and the delivery system called Medicare. Mr. President, that is not a Republican group. As a matter of fact, one might call it, if you seek to partisanize it, a Democratic group, because three Cabinet members of this President and the appointee of this President who heads Social Security were four members of the Commission—the majority. There are only two more. And all six of them, including the four, wrote a report to the people of this country, the seniors, the President, and the Congress, and told us in no uncertain language that the Medicare Program was in trouble because it was costing too much. I just want to read their recommendation so that we put everything into perspective. Their final words of real recommendation were the following:

> We strongly recommend that the crisis presented by the financial condition of Medicare trust funds be urgently addressed on a comprehensive basis, including a review of the program's financing methods, benefit programs, and delivery system.

Now, Mr. President, you would not have gathered from the comments of the distinguished Senator from Massachusetts that anything like this had even happened. Here sits a report—I wish I had a copy of it. If I am going to talk about it, I should bring it around. When I saw it, it was a little yellow notebook with a yellow cover, properly styled. I repeat, the Commissioners, four of whom work for this President, said the time is now—and I am going to repeat what they said we ought to be doing.

It is very, very simple. But Members would not have heard it from the speech of the Senator from Massachusetts. They said, "It is time to review the program's financing methods, benefit provisions, and delivery mechanism."

Now, why did they say that? Members would not have gathered this, either, from the remarks. They said there will be no money in 7 years to pay the bills. We would not have known that, either, from the remarks about all the evil and bad things that will happen to seniors.

The worst of all things is that there be no program, that they cannot pay their bills in 7 years. That is, really, something to call to the attention of the senior citizens of the United States.

Then say, "What is wrong with doing just what they said? Review the program's financing methods, benefit provisions, and delivery mechanisms."

Now, Mr. President, if we look at what was proposed in the budget resolution for this country, it is on all fours with the recommendations of the commission that reports on the financial condition of the system. If we take what they said and find out what we ought to do, we ought to save a given amount of money to the health care insurance over the next 7 years in order to make that system stay solvent and not be bankrupt.

The budget resolution says that is what we ought to do. Now, everybody ought to understand that Medicare is growing at about 10 percent a year. They mention that too, in the report. It cannot continue to grow at that pace and there still be money in the trust fund in 7 years to pay the bill.

It falls on someone to take a look at how we might do it better, give the seniors options, and perhaps cost the trust fund less money.

Now, that is what all of this is about. No matter how we talk about it, the truth of the matter is that many people in the U.S. Congress felt it was time to look at this and fix it. In fixing it, we just might give the senior citizens a pretty good hospital program that will cost very little more to them, but will cost less, because it will be more efficient.

We will take the fraud and waste out of the program and cause the delivery system to be restructured so you still have choice of your own doctor, but there is choice of plans, and perhaps over time we would save substantial amounts of money.

Now, Mr. President, before I read my anniversary speech on Medicare, I want to make one other comment. Those who oppose fixing the Medicare Program now cannot miss a beat without saying the Republicans are going to cut the taxes for the rich, and that is why they are fixing Medicare.

Now, Mr. President, and anyone listening, that is not true. First of all, if we take the so-called tax cuts that are proposed off the table—just do not do them—and the Medicare system will be bankrupt in 7 years. Let me repeat: The so-called tax cuts—and we will talk about them in a minute—if we take them off the table, we would not have gathered from the remarks of the distinguished Senator from Massachusetts that the Medicare system will still be broke. They are completely different issues.

If we do not fix the Medicare system, it will be short of funds, and cutting people's taxes has nothing to do with that unless Members would like to raise taxes to pay for Medicare. I have not heard anybody say that. But if we want to raise taxes, then we could talk about the program not having to be reduced in terms of cost. Mr. President, that is the fact.

In addition, in the U.S. Senate, the sense of this Senate has been that if we ever get tax cuts, and when we do, that 90 percent of the tax cuts will go to people with income under $100,000. Now, there is a difference of opinion in this body on how that tax package will look when it comes out, if it comes out.

Essentially, to continue to try to say, "Let's don't fix Medicare so it will be available 7 years from now," instead of dying on its 37th anniversary, go beyond the 37th, perhaps to 40 and beyond, instead of addressing that issue to talk about tax cuts for the rich does not help the senior citizens one single bit.

What it does help, it helps to make a political issue out of a situation that need not be politicized, for we actually ought to be joining hands across this aisle and with the President in fixing Medicare. I repeat, the tax cuts that are referred to in the Republican budget—take them out, and we still have to fix Medicare, because the money will not be there in 7 years. That is for certain.

Having said that, Mr. President, let me repeat, there are some who would insist that we are making changes to Medicare for other reasons. They may say we are changing it to balance the budget, or changing Medicare to lessen the tax burden on families.

Both of these claims are false. We are making changes in Medicare to save the program, to strengthen it so it can survive into the next century, and so Senators will be here well into the next century, able to congratulate the program and its founders on its anniversaries.

Any attempt to link that with cutting taxes is to no avail for the seniors of this country. Any attempt to link the two is, plain and simple, smoke and mirrors, from the opponents of reform. For there are still some—and I do not know, perhaps my friend from Massachusetts is one—who would stand and say the status quo for Medicare is good enough for seniors.

Do not worry about it, leave it alone. Now, the President said that in his first budget—"Leave it alone." However, the President of the United States even came around, and in a 10-year proposal for a balanced budget, although it did not get there, even the President suggested that dramatic reform had to occur in the Medicare Program in an effort to keep it solvent.

This was in June when the new budget was submitted, our new budget proposal. The President claimed that would save Medicare; that budget made a good start. His budget would save $127 billion from Medicare over the next 7 years—the same length of time as our budget.

Now, some are comparing the $127 billion in his budget, and saying we do not need the $270 billion to fix the program in our budget. I submit that the facts are our way. The experts on budget come down on our side.

We would like, very much, in the month of September, as part of a process up here, after hearings, meetings,

input from senior groups, we would like to try our hand at reforming this.

Mr. President, there are still some who leave the impression with senior citizens that we are truly cutting the Medicare Program. Let me straighten that out with some real facts. First, we are going to slow the rate of growth of the program. Medicare spending will grow at 6.4 percent a year under our plan. To put it another way, and a more understandable way, over the next 7 years Medicare spending is going to increase from $4,800 per person to $6,700 per person—not down, up. From $4,800 to $6,700.

I know many are very concerned about the future and what kind of future they are going to leave their children and grandchildren. And I believe, when the time comes, that when the program of reform is put before the American people it will be seen as an effort to deliver the same kind of care in different ways, to get rid of the fraud and abuse in the program, and ultimately to provide our senior citizens with far more options. They are operating under a program that is essentially 30 years old, and it is also that old in terms of what kind of a delivery system it is. While all kinds of modern ways to deliver health care, all kinds of ways of insuring people, permitting a variety of options of insurance coverage now exist, Medicare is stuck in history. It is a 30-year-old system.

We believe reform will cause seniors to get a better deal. There will be incentives built in which will make it easier, rather than more difficult, for seniors to purchase more of what they might want and less of what they might not want. Yes, there will be options for them to keep the very system they have and their own doctors.

So I want to just close by once again stating the caliber of the people who recommended that we ought to do something to fix this program—three of this President's Cabinet Members: then-Secretary Bentsen of Treasury, Secretary Shalala, and Secretary Reich. They are trustees of this system. And there were two public trustees, and they told us that we ought to fix the system. They told us it will not be around in 7 years. It will not have any money to pay the bills.

In a way, they said—and I am interpreting this—it is costing too much. Will you not take a look and see if you cannot do it better, cheaper, and protect not only the seniors who are using it now but seniors for a long time to come?

As I said, this Sunday, July 30, is the 30th anniversary of Medicare. For 30 years, Medicare has provided health protection to elderly and disabled citizens.

Medicare has been a successful program. Medicare has provided an important source of health security and needed health benefits to millions of Americans since its inception 30 years ago. Today, 37 million Americans receive the benefits and health security that Medicare provides.

But Medicare has also become an expensive program, and everyone—including the President—agrees that the system needs fundamental structural reform.

Medicare is running out of money. Unless we make changes now, Medicare will not continue to provide this same level of health security in the future.

Nevertheless, this past week, the President held a rally for Medicare. But all he talked about was the past. The President forgot the most important element of an anniversary celebration. He forgot to look toward the future. If the President fights the reforms necessary to save Medicare's future, then in just 7 years, on the 37th anniversary of Medicare, the program will be bankrupt.

In the President's first budget, which he sent to us in February, Medicare would go bankrupt in 2002. Seven more years; that's all the President would give Medicare. After that, there would be no money to pay Medicare hospital benefits. The President would let you choose your doctor, but there would be no money to pay your hospital bills.

The President's original Medicare proposal was great—for the next 7 years. But the 37th anniversary of Medicare would be its last. Under the President's original plan, if you're on Medicare, you better not get sick 8 years from now.

Back in January, the President did not listen to his own Cabinet Secretaries. Three of his Cabinet officers—Secretary Bentsen, Secretary Shalala, and Secretary Reich, are trustees of the Medicare system. Along with the two public trustees, they told the President and the Congress that the Medicare hospital insurance trust fund had only enough money to pay benefits for the next 7 years.

The President chose to ignore that. The Republicans in Congress did not. We invited the public trustees up to Capitol Hill, to tell us what needs to be done. We listened carefully, and now we are taking their advice.

Let me read from the summary of the trustees' report. The full board of trustees say, "The Hospital Insurance Trust Fund * * * will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range.

The two public trustees tell us that:

> The most critical issues relate to the Medicare Program. Both the Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund show alarming results. . . . The Medicare program is clearly unsustainable in its present form. . . . We feel strongly that comprehensive Medicare reforms should be undertaken to make this program financially sound now and over the long term. We strongly recommend that the crisis presented by the financial condition of the Medicare Trust Funds be urgently addressed on a comprehensive basis, including a review of the program's financing methods, benefit provisions, and delivery mechanisms.

This is what the public trustees of Medicare recommend we do to strengthen Medicare for the future. And this is exactly what we are doing now.

There are those who claim that we are making changes to Medicare for other reasons. They say we are changing Medicare to balance the budget, or we are changing Medicare to lessen the tax burden on working families.

Both of those claims are false. We are making changes to Medicare to save the program, to strengthen Medicare so it can survive into the next century. Even if we were not balancing the budget, we would need to save Medicare. And whether or not we cut taxes, we still need to save Medicare. Any attempt to link the two is nothing more than blue smoke and mirrors from the opponents of reform.

The Republicans in Congress have chosen to look toward Medicare's future. We decided this spring that we would save Medicare from bankruptcy, control the growth of program costs, and ensure that the program would survive past its 40th anniversary. We developed and passed a budget plan in June that guaranteed a strong Medicare into the next century.

Suddenly, the President decided to join us. In June, he submitted a new budget proposal, one which he claimed would save Medicare.

In June, the President made a good start. His budget would save $127 billion from Medicare over the next 7 years. He is now comparing that with our budget, which will slow the program's rate of growth by $270 billion over the next 7 years.

If I believed that we could save Medicare by doing only what the President wants to do, I would do so in a second. But, after a long, hard look at the numbers, and after extensive discussions with the Congressional Budget Office, I do not think the President's plan saves Medicare.

You see, the President has assumed that the costs of the program will not grow as fast as projected by the nonpartisan Congressional Budget Office.

The President's June budget assumes that a serious Medicare problem does not exist. He says the problem is not as hard to solve as CBO says it is. The President is much more optimistic in his assumptions than CBO.

I wish that were true, but I am afraid it is not. As much as the President wishes it would, the problem will not go away.

The President has come a long way since his first budget in January. Now all he has to do is agree to use the honest, objective, and nonpartisan CBO numbers, and we will have an excellent starting point for discussions.

All he has to do is live up to the commitment he made in his first State of the Union Address, his promise that he would use CBO numbers.

We in Congress use CBO numbers. The honest, responsible way to budget is to rely on a single source for our assumptions, and that is what we did both in our budget plan, and in our plan to save Medicare. We did not make the problem go away by wishing that it would. We asked CBO and the trustees what it would take to save Medicare, to keep it alive for its 40th anniversary.

The trustees have told us what we must do. Now we are going to do it.

We are going to slow the rate of growth of the program. Medicare spending will grow 6.4 percent per year under our plan. Over the next 7 years, Medicare spending is going to increase from $4,800 per person, to $6,700 per person.

I know that older Americans are seriously concerned about the future they will leave to their children and their grandchildren. I have found that senior citizens are extremely concerned about the crushing burden of the debt that our current policies will place on their grandchildren.

And I know they want a Medicare program that is fair, both for them, and for future generations. I also know that a 65-year-old couple that starts receiving Medicare this year will, over their lifetimes, receive $117,000 more in Medicare benefits than they will put into the system in payroll taxes and premiums.

I know that this will concern many seniors, who want Medicare to be there in the future for them, for their kids, and for their grandchildren.

We are going to spend nearly 5 percent more per year on each Medicare beneficiary in this budget. So anyone who tells you that we are cutting Medicare is just trying to scare you.

What honestly should scare America's senior and disabled citizens is the prospect that we will do nothing. For if we do nothing, seniors will have hospital benefits for only 7 more years.

If we do nothing, seniors will be able to keep their doctor, but only for the next 7 years. After that, you will still have your doctor, but he will not be able to treat you in a hospital. After that, the hospital insurance trust fund will run out of money, and Medicare will not be able to pay hospital benefits.

I want to make sure that our seniors can keep their existing coverage.

I want to give them the opportunity to choose other health plans, just like my colleagues and I in the Senate can choose our health plans.

And most important, I want to make sure that they can do all these things for more than just the next 7 years.

In September, we are going to report legislation that will strengthen Medicare. We are going to simplify Medicare. And we are going to make sure that every Medicare beneficiary has the right to choose their health plan, just like my fellow Senators and I have.

We need to strengthen Medicare, and we have to do this by controlling the program's rate of growth. The first thing we are doing is attacking the waste and fraud in the system. Every senior currently receiving Medicare knows that the system is inefficient, complex, and filled with opportunities for waste and fraud. We are going after that money first.

But all the experts tell us that will not be enough. We are going to do it, but then we are going to have to look at changes to the program, in both the short and the long run.

In the short run, we are going to look at how much we pay doctors and hospitals, and the way we pay doctors and hospitals for the services you receive. We are going to try to create the right incentives so that doctors and hospitals are smart about how they spend your money.

Most importantly, we are going to offer seniors more choices. As a U.S. Senator, I have the ability to choose my health plan once a year. If I want a generous program with lots of benefits and no deductible, I pay a bit more. In some areas of the country, Medicare already allows seniors these choices.

We are going to expand this program, and gradually change the system so that all seniors have choices like we have in the Senate.

Some seniors are going to have to pay a little bit more. There is no way we can get around that. But we are going to come to the seniors last, after we have attacked the waste and fraud in the system, after we have made changes to the way we pay doctors and hospitals, and after we have started to phase in changes that provide seniors with more choices.

Any changes we make will be phased in gradually over time. We know that seniors on fixed incomes have difficulty adjusting to dramatic changes, and we are taking that into account.

We also know that some seniors with higher incomes have a greater ability to adapt to changes than others. We may ask those seniors to pay a bit more, to compensate for those who have just enough income to get by.

I will not let Medicare go bankrupt. Yes, I too celebrate the 30th anniversary of Medicare. It has been an important program, critical to the health of America's older and disabled citizens.

But right now, I am thinking about how we are going to make sure Medicare has a 40th anniversary and beyond.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I inquire as to what order we are in?

The PRESIDING OFFICER. Under unanimous consent, morning business has been extended until 2 p.m. Senators may speak up to 5 minutes.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak for up to 5 minutes in morning business.

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

PROGRESS OF TIMBER SALVAGE IN IDAHO FROM 1994 WILDFIRES

Mr. CRAIG. Mr. President, it has been 1 year since the start of the terrible wildfires which burned through Idaho last summer. Lightning strikes ignited our forests, already suffering from poor forest health, and raged through Idaho, causing devastation to 738,000 acres, one-fifth of the nationwide total acres burned in 1994.

I am here to tell the story, as it has been written so far, of the 1994 Idaho fires, and the slow progress of reforestation and timber salvage. The fires began in late July, and by early September, 14,000 firefighters had been employed across the State. Early on, Dave Alexander, forest supervisor on the Payette National Forest, called to alert me that with the dry conditions and already-dead forests adding fuel, the fires could not be stopped short of reaching the Salmon River after a run of 25 to 30 miles.

Dave Alexander was right. The fires were stopped at the Salmon River and extinguished only when the snows arrived in October. By then, Idaho's fires had cost $150 million to fight and an estimated 2 billion board feet of timber had burned. And, of course, the habitat for the wildlife of the area was devastated.

By Forest Service estimates, as much as 665 million board feet of the burned timber was salvageable, with a potential revenue of $325 million. Remember, 25 percent of this revenue would be returned to local counties for schools and roads. In Idaho, Shoshone County officials have watched their budget drop sharply because of the lack of national forest timber sales. They are desperate for some solutions to their situation. They are among many who have pointed out the absurdity of no timber sales being offered while dead forests abound. Equally concerned are the 100 former employees of the Ida-Pine sawmill which closed for lack of timber supply, while watching the nearby forests burn up.

Unfortunately the value of burned trees drops rapidly over time. Time is the primary factor in accomplishing timber salvage and replanting the burn. The consequences of leaving burned forests untreated are both environmental and financial. Not only is it a waste of potential revenue to the U.S. Treasury and the counties, it encourages future wildfire. If left standing, dead trees become conduits for

lightning and may cause a re-burn, fueled by the ready supply of fallen trees never removed from the first fire. This scenario is no boon to fish and wildlife habitat, either.

So, it made sense to mount an aggressive timber salvage program on the Boise and Payette National Forests. On the Boise alone, an estimated 2,600 jobs would be created by the salvage operations. These two forests have been moving as quickly as possible under current law. But the laws and regulations, prior to enactment of the fiscal year 1995 rescissions bill with its salvage provisions, simply did not permit the Forest Service to act quickly enough. Rather, they constituted a formula for inaction and delay.

Let me tell you why. First, both forests have been slogging their way through eight separate NEPA [National Environmental Policy Act] documents, five of them environmental impact statements.

Consider the fact that the Forest Service even finds it necessary to prepare five environmental impact statements. When NEPA was enacted in 1969, EIS's were to be done only in the case of a major Federal action. Now, driven by the courts, the Forest Service is compelled to conduct an EIS just to sell dead, burned trees. You tell me how this makes sense.

Consider also, that preservation groups have found a new method to delay and obstruct completion of these NEPA documents. They deliberately use the Freedom of Information Act as a harassment tool. The Boise National Forest has responded to 45 separate FOIA requests at a cost of more than $50,000. On the Payette, the number of FOIA requests has quadrupled, and a new, full-time position was created at a cost of $20,000 to handle the responses. One FOIA request was expected to take 670 hours of staff time to respond, thereby diverting staff away from salvage preparations.

It is this type of delay and added expense which causes me and other Senators to argue the need for streamlining the current rules as we have done in the rescissions bill, which is now law. Without the help of the Congress to clear some of the procedural path, timber salvage would be nearly impossible to accomplish.

The continuing story of the 1994 Idaho wildfires is a case in point. As of July 1, not one stick of burnt timber had yet been salvaged from the Boise or Payette National Forests. Not 1 acre of the burned forest has been replanted with trees, because the reforestation would be paid for by salvage receipts. The State forests had been salvaged. The adjoining private ownerships had been salvaged, but not the Federal lands.

Now those decisions are finally being made on the EIS's, those decisions have been appealed and held up by proponents of gridlock. I intend to come to the floor again soon to continue this story. I will follow the story as it unfolds. It will demonstrate why it is imperative that Congress provide relief in some form to free salvage sales from the burden of the unnecessary and costly procedures in place now. Salvage provisions in the rescission law are only temporary. They will expire in December 1996. With that in mind, I will press forward with S. 391, the long-term forest health bill I introduced in February. More on that with the next chapter of this story.

For now, please take note—665 million board feet awaits salvage; as of July 1, no timber salvage had been done; no reforestation had been done; and 11 months had passed in preparing NEPA documents. Now those decisions are being appealed.

Soon I will be back to talk about the fires of 1994, the devastation and the destruction, and ways this Congress and this country can move to a better procedure to manage our national forests.

I yield the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the time for morning business be extended to the hour of 2:15, and that I have the opportunity to speak until then.

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

The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 1093 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE 30TH ANNIVERSARY OF THE PASSAGE OF MEDICARE

Mr. REID. Mr. President, I feel it is important to talk on the 30th anniversary of the passing of Medicare and especially after listening to some of the statements made by my friend, the senior Senator from the State of New Mexico while I was in the Chamber.

It is important that we recognize Medicare is a program that is really working. It is a program that has separated us from other countries, made our senior citizens able to receive the care, medical care in general, that they need. Certainly there needs to be improvements made in the Medicare system, and we should make those. But I think the across-the-board cuts we have in the budget resolution that is now before this body are really out of line.

Mr. President, just so we can understand, these cuts really do affect people. These cuts are not just farfetched, in the imagination of the Senator from Nevada. Republicans are proposing to cut more than $450 billion from health care between 1996 and 2002, $270 billion of these dollars from Medicare and $182 billion from Medicaid. In combination, these cuts are more than four times anything ever enacted. Most of the $270 billion in Medicare cuts would not be necessary without the Republicans' $245 billion tax cut.

Over a 7-year period, the combined Medicare and Medicaid cuts of the Republicans would reduce Federal health care dollars to Nevada by $2 billion—the small State of Nevada by over $2 billion. Each of Nevada's 182,000 Medicare beneficiaries would pay as much as $3,000 more in premiums and copayments. Couples would pay at least $6,000 more. Overall, the State of Nevada would lose $533 million in Medicare funding in 2002 and $2 billion over 7 years.

In Medicaid, overall, the State of Nevada would lose $157 million in Federal Medicaid funding in 2002 and $516 million over the 7 years, a reduction of 29 percent in the year 2002 alone, and this is according to the Urban Institute. This will have a devastating impact on the State's current almost 100,000 recipients. According to this study, these cuts would mean that Nevada would have to cut off coverage to over 25,000 recipients, likely adding them to the ranks of the uninsured.

Mr. President, we all heard the speeches early on. The distinguished majority leader before the election said:

> President Clinton and Vice President Gore are resorting to scare tactics falsely accusing Republicans of secret plans to cut Medicare benefits. This was reported widely. I just selected the Washington Post in November of last year.

The Republican National Committee chairperson, Haley Barbour, said:

> The outrage, as far as I am concerned is the Democrats' big lie campaign that the Contract With America would require huge Medicare cuts. It would not.

This was reported a number of places after Barbour made the speech, but I have chosen here CNN Late Edition, November 6, 1994.

But what has happened after the election?

> The GOP plan: $270 billion in Medicare cuts—

This does not count almost $200 billion more in Medicaid cuts—

> the largest Medicare cuts in history; seniors pay $900 more a year in out-of-pocket health care costs.

Those are the facts. We cannot escape it. To my friend from New Mexico, I say clearly, of course we have got to make some changes in Medicare. But we should do it with congressional hearings, like we do other things responsibly around here.

I yield the floor.

WAS CONGRESS IRRESPONSIBLE? CONSIDER THE ARITHMETIC

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is sort of like the weather—everybody talks about it but almost nobody had done much about it until immediately after the elections last November.

But when the new 104th Congress convened in January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. In the Senate all but one of the 54 Republicans supported the balanced budget amendment; only 13 Democrats supported it. Since a two-third-vote—67 Senators—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote later this year or next year.

Mr. President, as of the close of business Thursday, July 27, the Federal debt—down to the penny—stood at exactly $4,948,216,665,542.90 or $18,783.51 for every man, woman, and child on a per capita basis.

MEDICARE'S 30TH ANNIVERSARY

Mr. GLENN. Mr. President, this Sunday marks the 30th anniversary of the Medicare Program's enactment into law. On July 30, 1965 President Lyndon Johnson traveled to Independence, MO, to sign the bill creating Medicare with President Harry Truman looking on. President Truman, of course, had proposed the creation of a national health insurance program in 1948. But it took 17 years of discussion and debate, several failed attempts in Congress, and the work of the Truman, Kennedy, and Johnson administrations, before the stage was set for Democrats to build on Social Security's successes and further guarantee security for our Nation's elderly and disabled citizens.

Thirty years ago, Medicare's detractors tried to rally opponents with cries of socialized medicine and forecasts of Medicare's impending failure. Since that time, we have witnessed the positive impact that Medicare has had on the lives of seniors and disabled beneficiaries, as well as their families. Few can deny Medicare's accomplishments. By ensuring access to necessary and appropriate medical services, Medicare continues to help millions of Americans lead dignified and independent lives—free from worry that even a minor illness or injury could devastate both their personal, and their family's, financial security.

Medicare is not a perfect health insurance program. Congress continues to work to control Federal health spending, and the elderly must still confront the ever-increasing costs of treatment for catastrophic illness, long-term care, and prescription drugs. However, today's seniors enjoy their retirement years in better health and with a greater sense of security than most thought possible 30 years ago.

Ten years ago, I made a brief statement to mark Medicare's 20 year anniversary. In that statement, I discussed the efforts that Congress had made to expand benefits, improve the quality of Medicare services, and address the explosion of health care spending. As we all know, the Congress has not solved all of the health care challenges I outlined that day, and today the Medicare program may be facing its greatest test. But Mr. President, Congress is confronting Medicare's current fiscal challenge with a radically different spirit and attitude than it had in the past.

Until recently, the Medicare debate was centered around the commitment to keeping our compact with America's seniors by ensuring Medicare's long-term solvency, while also expanding beneficiaries' access to services and improving the quality of care. The recent budget resolution's $270 billion Medicare cut—which has been disguised as a Medicare rescue—is actually nothing more than an attempt to extract the maximum amount of budget savings from the Medicare Program.

Somehow the Medicare reform debate has become a discussion about how the Congress can balance the Federal budget and give tax breaks to the rich, instead of how our country can provide health care and security for the elderly and disabled. Let us put aside the political posturing surrounding the budget debate and sit down to figure out what is best for the 37 million Americans who are served by Medicare, and the millions more expected to join the rolls in the future.

Mr. President, these days Americans are very cynical about their government. We should not confirm the public's fear that Members of Congress are trying to gain political advantage from Medicare's fiscal crises, rather we must take action to restore the public confidence while restoring the stability of Medicare. A generation that has given so much should not be burdened with higher premiums and deductibles or decreased benefits. Older American's financial security should not be sacrificed for partisan gain.

I recognize the limits of Medicare in this time of tight budgets and downsizing of government, but I also believe that by working together, we can fulfill a pledge made three decades ago and honor our commitment to today's seniors, and future generations of older Americans.

GIFT REFORM

Mr. SMITH. Mr. President, I rise to state briefly the reasons why I voted today in support of S. 1061, the bill to reform the rules of the Senate regarding the acceptance of gifts by Members and employees of the Senate. That measure, of course, was approved by a resounding, bipartisan vote of 98–0.

Mr. President, in the 103d Congress, I was pleased to support S. 1935, the Congressional Gifts Reform Act, which was approved by the Senate on May 11, 1994, by a vote of 95 to 4. Ultimately, however, S. 1935 did not become law because it was combined in conference with a controversial lobbying reform measure. As a result, the conference report was not approved by the Senate.

I am pleased, Mr. President, that the Senate has now revisited the issue and has succeeded in reforming its Rules regarding gifts. S. 1061, as adopted by the Senate today, represents a reasonable compromise among the competing proposals for gift reform. In general, Members and employees of the Senate will be permitted to accept only nonmonetary gifts with a value of less than $50, with a total cumulative value of no more than $100, in any calendar year from any person, corporation, or organization. No gift with a value below $10, however, will count towards the $100 annual limit.

As a member of the Select Committee on Ethics, I am strongly committed to keeping the ethical standards of the Senate above reproach. The new gift standard under which the Senate will be operating will make an important contribution to enhancing public confidence in the Senate as an institution.

I want especially to commend the distinguished Senator from Kentucky, MITCH MCCONNELL, for his exemplary leadership in working to achieve the compromise that resulted in the unanimous passage of S. 1061. It is my privilege to serve under Senator MCCONNELL'S leaderships as the chairman of the Select Committee on Ethics. He does an outstanding job of leading that important Select Committee under what are sometimes difficult circumstances.

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH IRAQ—MESSAGE FROM THE PRESIDENT—PM 69

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:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to

continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1995, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interest in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1995.*

REPORT UNDER THE GENERALIZED SYSTEM OF PREFERENCES PROGRAM—MESSAGE FROM THE PRESIDENT—PM 70

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 Finance.

To the Congress of the United States:

The Generalized System of Preferences (GSP) program offers duty-free treatment to specified products that are imported from designated beneficiary developing countries. The program is authorized by title V of the Trade Act of 1974, as amended.

Pursuant to title V, I have determined that Maldives should be suspended from the GSP program because it is not making sufficient progress in protecting basic labor rights. I also have decided to designate Moldova as a beneficiary developing country for purposes of the GSP program because I have determined that Moldova satisfies the statutory criteria.

This notice is submitted in accordance with the requirements of section 502(a)(1) and 502(a)(2) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1995.*

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-255. A resolution adopted by the House of the Legislature of the State of Alabama; to the Committee on Governmental Affairs.

"HOUSE JOINT RESOLUTION 72

"Whereas, the 10th Amendment of the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

"Whereas, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

"Whereas, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, today, in 1995, the states are demonstrably treated as agents of the federal government; and

"Whereas, numerous resolutions have been forwarded to the federal government by various states without any response or result from Congress or the federal government; and

"Whereas, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

"Whereas, the United States Supreme Court has ruled in New York v. United States, 112 S.Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the state; and

"Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now, therefore, be it

"*Resolved by the Legislature of Alabama, both Houses thereof concurring*, That the State of Alabama hereby claims sovereignty under the 10th Amendment of the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

"*Be it further resolved*, That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

"*Resolved further*, That copies of this resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and the President of the Senate of each state's Legislature of the United States of America, and Alabama's Congressional Delegation."

POM-256. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Governmental Affairs.

"A SENATE CONCURRENT RESOLUTION

"Whereas, the 10th Amendment to the Constitution of the United States reads "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.";

"Whereas, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more;

"Whereas, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states;

"Whereas, today the states are demonstrably treated as agents of the federal government;

"Whereas, numerous resolutions have been forwarded to the federal government by the Indiana General Assembly without a response or result from Congress or the federal government;

"Whereas, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States;

"Whereas, the United States Supreme Court has ruled in New York vs. United States, 112 S. Ct. 2408 (1992) that Congress may not simply commandeer the legislative and regulatory processes of the states; and

"Whereas, a number of proposals from past administrations and some proposals from the current administration and Congress that are now pending may further violate the United States Constitution: Now, therefore, be it

"*Resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

Section 1. (a) That Indiana hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by The Constitution of the United States.

"(b) That this serve as notice and demand to the federal government, as the states' agent, to immediately cease and desist enacting mandates that are beyond the scope of the federal government's constitutionally delegated powers."

POM-257. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

"JOINT RESOLUTION

"Whereas, Joshua Lawrence Chamberlain was a great and noble American from the State of Maine, a Civil War Hero who led the successful charge of the 20th Maine Volunteer Regiment at Little Round Top at Gettysburg, which was said to have turned the tide of the bloody and fearsome battle against the Confederate Army and saved the Northern armies from annihilation; and

"Whereas, Joshua Lawrence Chamberlain was the Union General who was chosen by Ulysses S. Grant to formally accept the surrender of the Army of Northern Virginia at Appomattox and who ordered his soldiers to salute the vanquished Confederates, at the passing of the armies, who then returned that gesture, returning "honor with honor"; and

"Whereas, Joshua Lawrence Chamberlain, was was born in Brewer, Maine in 1828 and who was a college professor when he volunteered for service in the 20th Maine Regiment; who was wounded 6 times and cited 4 times for heroism; who was awarded the Congressional Medal of Honor for his courage at Little Round Top; who was promoted to Brigadier General in a rare field promotion by General Ulysses S. Grant at Petersburg, where Chamberlain was so severely wounded that his death was reported in Northern newspapers; who was promoted to Major General; who was Governor of Maine for 4 terms; who was President of Bowdoin College; and who was admired by friend and foe alike for his great character, independence and vision; Now, therefore, be it

"*Resolved:* That we, your Memorialists, respectfully recommend and urge the United States Postal Service to issue a stamp honoring Joshua Lawrence Chamberlain; and be it further

"*Resolved:* That suitable copies of this memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each member of the Maine Congressional Delegation and to the Postmaster General of the United States Postal Service."

POM-258. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs.

"HOUSE JOINT RESOLUTION 1

"Whereas, the 10th Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."; and

"Whereas, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

"Whereas, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, today, in 1995, the states are demonstrably treated as agents of the federal government; and

"Whereas, numerous resolutions have been forwarded to the federal government by the New Hampshire general court without any response or result from Congress or the federal government; and

"Whereas, many federal mandates are directly in violation of the 10th Amendment of the Constitution of the United States; and

"Whereas, the United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992), the Congress may not simply commandeer the legislative and regulatory processes of the states; and

"Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; Now, therefore, be it

"*Resolved by the Senate and House of Representatives in General Court convened:* That the state of New Hampshire hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution; and

"That this serve as notice and demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and

"That copies of this resolution be sent by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and New Hampshire's Congressional delegation"

POM-259. A resolution adopted by the Board of Commissioners of Yadkin County, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

POM-260. A resolution adopted by the Board of Commissioners of Columbus County, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

POM-261. A joint resolution adopted by the General Assembly of the State of Maryland; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION 9

"Whereas, in the 1930s, the Congress of the United States assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

"Whereas, the railroad retirement system today covers over 1 million individuals who have contributed over the years in good faith and have legitimate expectations of receiving their benefits; and

"Whereas, the National Performance Review Board proposes to transfer the functions of the Railroad Retirement Board to the Social Security Administration, other federal agencies, and private sector service providers; and

"Whereas, this proposal would privatize and terminate a program that has worked well and provided retirement security of 1.3 million active, retired, and disabled rail workers and their families for nearly 60 years: Now, therefore, be it.

"*Resolved by the General Assembly of Maryland,* That the United States Congress reject the proposal by the National Performance Review Board to transfer the functions of the Railroad Retirement Board to the Social Security Administration, other federal agencies, and private sector service providers; and be it further.

"*Resolved,* That a copy of this Resolution be forwarded by the Department of Legislative Reference to the National Performance Review Board, Office of the Vice President, Old Executive Office Building, Washington, D.C. 20501."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 852. A bill to provide for uniform management of livestock grazing on Federal land, and for other purposes (Rept. No. 104-123).

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 1087. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes (Rept. No. 104-124).

By Mr. GORTON, from the Committee on Appropriations, with amendments:

H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. No. 104-125).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

B. Lynn Winmill, of Idaho, to be United States District Judge for the District of Idaho.

Andre M. Davis, of Maryland, to be United States District Judge for the District of Maryland.

Catherine C. Blake, of Maryland, to be United States District Judge for the District of Maryland.

A. Wallace Tashima, of California, to be United States Circuit Judge for the Ninth Circuit.

Edward Scott Blair, of Tennessee, to be United States Marshal for the Middle District of Tennessee for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably two nomination lists in the U.S. Marine Corps, which were printed in full in the CONGRESSIONAL RECORDS of April 3 and May 11, 1995, 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.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of April 3 and May 11, 1995 at the end of the Senate proceedings.)

In the Marine Corps there are 73 appointments to the grade of colonel (list begins Anthony T. Alauria).

In the Marine Corps there are 692 appointments to the grade of major (list begins David V. Adamiak).

Total 765.

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. DOLE (for himself, Mr. PRYOR, Mr. ROTH, Mr. BAUCUS, Mr. PRESSLER, Mr. BREAUX, Mr. BOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. HATCH, Mr. D'AMATO, Mr. MURKOWSKI, Mr. NICKLES, Mr. HELMS, Mr. WARNER, Mr. GREGG, Mr. BENNETT, Mr. LUGAR, Ms. SNOWE, Mr. ABRAHAM, Mr. BURNS, Mr. LOTT, Mr. ASHCROFT, Mr. COATS, Mr. INHOFE, Mrs. HUTCHISON, Mr. STEVENS, Mrs. KASSEBAUM, Mr. KERREY, Mr. COHEN, Mr. CAMPBELL, and Mr. COVERDELL):

S. 1086. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 1087. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. COHEN:

S. 1088. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1089. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to prevent and control the infestation of Lake Champlain by zebra mussels, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. BROWN, and Mr. KERRY):

S. 1090. A bill to amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for public access to information in an electronic format, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself and Mr. CONRAD):

S. 1091. A bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCONNELL:

S. 1092. A bill to impose sanctions against Burma, and countries assisting Burma, unless Burma observes basic human rights and

permits political freedoms; to the Committee on Foreign Relations.

By Mr. REID (for himself and Mr. BRYAN):

S. 1093. A bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. LEVIN, Mr. COHEN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. KYL, Mr. MCCONNELL, Mr. GRAMS, Mr. ABRAHAM, Mr. WARNER, Mr. HARKIN, Mr. BINGAMAN, and Mr. BAUCUS):

S. Res. 158. A resolution to provide for Senate gift reform; considered and agreed to.

By Mr. PELL:

S. Con. Res. 22. A concurrent resolution expressing the sense of the Congress that the United States should participate in Expo '98 in Lisbon, Portugal; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. PRYOR, Mr. ROTH, Mr. BAUCUS, Mr. PRESSLER, Mr. BREAUX, Mr. BOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. HATCH, Mr. D'AMATO, Mr. MURKOWSKI, Mr. NICKLES, Mr. HELMS, Mr. WARNER, Mr. GREGG, Mr. BENNETT, Mr. LUGAR, Ms. SNOWE, Mr. ABRAHAM, Mr. BURNS, Mr. LOTT, Mr. ASHCROFT, Mr. COATS, Mr. INHOFE, Mrs. HUTCHISON, Mr. STEVENS, Mrs. KASSEBAUM, Mr. KERREY, Mr. COHEN, Mr. CAMPBELL, and Mr. COVERDELL):

S. 1086. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY-OWNED BUSINESS ACT

Mr. DOLE. Mr. President, I rise today to introduce the American Family-Owned Business Act—a bill that will preserve the American family and save jobs across the country.

I am proud that this bill was developed on a bipartisan basis, led on the Democratic side by my colleague from Arkansas, Senator PRYOR. We are joined by Senators ROTH, BAUCUS, PRESSLER, BREAUX, SIMPSON, BOND, D'AMATO, GRASSLEY, NICKLES, HELMS, WARNER, GREGG, BENNETT, LUGAR, SNOWE, ABRAHAM, BURNS, LOTT, ASHCROFT, COATS, INHOFE, HUTCHISON, STEVENS, MURKOWSKI, KASSEBAUM, KERREY, COHEN, and HATCH.

The current Federal estate tax is just too burdensome on the American family. Time and time again, farmers and other business owners across the country have told me that estate tax rates are just too high. They rise quickly from 18- to 55-percent, effectively making the Government a 50–50 partner in a family business.

Even the most sophisticated estate tax planning and the purchase of life insurance cannot sufficiently mitigate the effects of these high rates, leaving families no recourse but to sell their businesses to pay the estate tax. This bill will stop these forced sales from happening again.

I agree with many who say that estate tax rates should be reduced across the board, or repealed entirely. And I hope that we do that some day. But today we take an important first step with the American Family-Owned Business Act.

This bill cuts estate tax rates in half and also creates a new exclusion that completely eliminates the estate tax for small businesses.

Under the new exclusion, family-owned businesses can exempt up to $1.5 million of family business assets from their estate. If a family business is valued at more than $1.5 million, the excess is taxed at one-half of the current rates—thus providing a maximum tax rate of 27.5 percent.

My colleagues and I introduce this bill to protect and preserve family enterprises. We know too well the adverse impact of an estate tax-forced sale. The family loses its livelihood, the family business employees lose their jobs, and the community suffers.

We must do all that we can to help family-owned businesses not only survive, but also prosper. They are the job creators in this country. In the 1980's alone, family businesses accounted for an increase of more than 20 million private-sector jobs.

By relieving families from the burden of the estate tax and letting them keep their business, they can continue to prosper. And when families continue to operate their businesses, we all benefit—the business employees keep their jobs, the Government receives income taxes on business profits, and the families retain their livelihood.

The estate tax is not a Democratic or a Republican problem, or one that affects only rural or urban families. There are farmers, ranchers, or other family businesses in each State that would benefit from this legislation. That is why this bill is supported by dozens of groups, each listed at the conclusion of this statement.

Many of my colleagues have introduced bills to provide estate tax relief in various situations. These bills include important ideas, many of which are reflected in the American Family-owned Business Act. As we begin the process of providing estate tax relief, we hope to work closely with the sponsors of these other bills, and to work toward common goals. We encourage those Senators who have sponsored their own bills to sign on to this one and work toward a single package of estate tax relief.

As we intend, the American Family-Owned Business Act provides relief for family businesses across the country—from the tree farmer in the Northeast or the rancher in the Southwest, to the farmer in the Midwest or the corner grocery store owner in the South.

The bill requires heirs to participate in the family business. These participation rules are deliberately flexible and recognize that different family businesses need differing levels of participation by heirs. For example, the bill recognizes that owners of tree farms may participate at a level lower than that of owners of other businesses, since tree farming often does not require continuous attention as do other farming activities.

This bill provides the critical relief needed for American families' businesses. We urge all our colleagues to support this effort.

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

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

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 "The American Family-Owned Business Act".

SEC. 2. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—This section shall apply to an estate if—

"(1) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(2) the excess of—

"(A) the sum of—

"(i) the adjusted value of the qualified family-owned business interests which—

"(I) are included in determining the value of the gross estate (without regard to this section), and

"(II) are acquired by a qualified heir from, or passed to a qualified heir from, the decedent (within the meaning of section 2032A(e)(9)), plus

"(ii) the amount of the adjusted taxable gifts of such interests from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), to the

extent such interests are continuously held by such members between the date of the gift and the date of the decedent's death, over

"(B) the amount included in the gross estate under section 2035,

exceeds 50 percent of the adjusted gross estate, and

"(3) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(A) such interests were owned by the decedent or a member of the decedent's family, and

"(B) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under section 2053(a)(4), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount taken into account under subsection (b)(2)(B)), plus

"(ii) the amount of other gifts from the decedent to the decedent's spouse (at the time of the gift) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, over

"(B) the amount included in the gross estate under section 2035.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under section 2053(a)(4), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in subparagraph (A) or (B), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest as a partner in a partnership, or stock in a corporation, carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such partnership or corporation is owned (directly or indirectly) by the decedent or members of the decedent's family,

"(II) 70 percent of such partnership or corporation is so owned by 2 families (including the decedent's family), or

"(III) 90 percent of such partnership or corporation is so owned by 3 families (including the decedent's family), and

"(ii) at least 30 percent of such partnership or corporation is so owned by each family described in subclause (II) or (III) of clause (i).

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in—

"(i) an entity which had, or

"(ii) an entity which is a member of a controlled group (as defined in section 267(f)(1)) which had,

readily tradable stock or debt on an established securities market or secondary market (as defined by the Secretary) within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)), and

"(D) that portion of an interest in a trade or business that is attributable to cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business.

"(3) OWNERSHIP RULES.—

"(A) INDIRECT OWNERSHIP.—For purposes of determining indirect ownership under paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 447(e) shall apply.

"(B) TIERED ENTITIES.—For purposes of this section, if—

"(i) a qualified family-owned business holds an interest in another trade or business, and

"(ii) such interest would be a qualified family-owned business interest if held directly by the family (or families) holding interests in the qualified family-owned business meeting the requirements of paragraph (1)(B),

then the value of the qualified family-owned business shall include the portion attributable to the interest in the other trade or business.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the qualified heir ceases to use for the qualified use (within the meaning of section 2032A(c)(6)(B)) the qualified family-owned business interest which was acquired (or passed) from the decedent, or

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)).

"(2) ADDITIONAL ESTATE TAX.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(A) the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(B) interest on the amount determined under subparagraph (A) at the annual rate of 4 percent for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(g) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treatment as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SUPPORTERS OF AMERICAN FAMILY-OWNED BUSINESS ACT

Air Conditioning Contractors of America.

Alliance of Independent Store Owners & Professionals.

American Alliance of Family Businesses.

American Association of Nurserymen.

American Consulting Engineers Council.

American Electrical Contractors Association.

American Equipment Distributors.

American Farm Bureau Federation.

American Horse Council.

American Road and Transportation Builders Association.

American Sheep Industry Association.

American Soybean Association.

American Subcontractors Association.

American Trucking Association.

American Vintners Association.

Associated Builders and Contractors.

Associated Equipment Distributors.

Associated General Contractors of America.

Building Advertising Council.

Building Service Contractors Associations International.
Committee to Preserve the American Family Business.
Communicating for Agriculture.
Council of Fleet Specialists.
Food Marketing Institute.
Forest Industries Committee on Taxation.
Independent Bankers Association of America.
Independent Petroleum Association of America.
Machinery Dealers National Association.
Marina Operators Association of America.
Marine Retailers Association of America.
National-American Wholesale Grocers' Assn./International Foodservice Distributors.
National Association for the Self-Employed.
National Association of RV Parks and Campgrounds.
National Association of Realtors.
National Association of Retail Druggists.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Automobile Dealers Association.
National Cattlemen's Association.
National Corn Growers Association.
National Cotton Council.
National Farmers Union.
National Federation of Independent Business.
National Food Brokers Association.
National Home Furnishings Association.
National Lumber and Building Material Dealers Association.
National Milk Producers Federation.
National Pork Producers Council.
National Restaurant Association.
National Retail Federation.
National Roofing Contractors Association.
National Stripper Well Association.
National Tire Dealers & Retreaders Association.
National Tooling & Machining Association.
Printing Industries of America.
Promotional Products Association International.
Retail Bakers of America.
Sageguard America's Family Enterprises.
Sheet Metal & Air Conditioning Contractors National Association.
Small Business Exporters Association.
Small Business Legislative Council.
Society of American Florists.
U.S. Business and Industrial Council.
U.S. Chamber of Commerce.
Wine and Spirits Wholesalers of America.
World Floor Covering Association.

Mr. ROTH. Mr. President, sometimes it appears that government has declared war on the family farm and small business. This is an irony, given the fact that these historic American institutions are the backbone of our economy. We all know the statistics—how since the early 1970's, small businesses have created two out of every three new jobs—how our family farms have helped turn America into the most productive agricultural provider in the world.

On previous occasions, I've come to the floor to detail how government, time and again, has tried to kill the goose that lays the golden egg. Not only are small businesses and our family farms feeling the crunch from Federal taxation and over-regulation, but they are getting hit on the local level, as well. When Congress increases regulations—when Congress hits small business men and women with tax increases—rarely are these regulations and increases considered in light of the State and local taxes these men and women are paying. Fortune magazine reports that the tax liability of small businesses is one of the fastest rising, especially through the increases of property taxes—taxes which have a profound impact on our farmers.

On top of this tremendous tax and regulatory load that small business owners and family farmers must bear in life, the Federal Government even refuses to allow them peace in death. In fact, in many cases the way the Tax Code is written today, the death of a small business man or woman in a family-owned enterprise brings about what can only be considered a hostile takeover by the Government.

Under current law, when the key member of a family-owned business dies, the Federal Government mandates an estate tax that can reach as high as 55 percent. Fifty-five percent, Mr. President. Think about that. It can make the Federal Government literally the majority owner of a business that a family has worked for years to build.

If a Government takeover isn't bad enough, the families involved soon realize that Uncle Sam doesn't even want to keep the business. He's not interested in a partnership. He just wants his pound of flesh, even if it kills the enterprise. Time and again, this has happened as wonderful, hard-working, risk-taking spouses and children—valiant souls who have often sacrificed for the family cause—are forced by old Uncle Sam to sell the company or farm just to pay the taxes.

If all this seems familiar, Mr. President, it is. It's familiar to anyone who's ever seen an old Vaudeville melodrama. If you can't pay the taxes, you lose the family farm. Well, Mr. President, all that changes with this legislation—legislation I have authored with Senators DOLE and PRYOR. And frankly, I don't mind playing the role of Dudley Dooright, along with these distinguished colleagues and a host of others who have cosponsored this legislation. In fact, I'm pleased to be a champion of small business, especially when I hear stories like those I shared in our press conference today.

These are stories about real people—about an elderly woman from Delaware who, upon her death, left her family farm to her five children. They wanted the farm. They wanted it to remain in the family. It was valued at over $2 million. But in came Uncle Sam—just like in the melodrama—and demanded estate taxes of almost $1 million. Now, Mr. President, it's not hard to understand how a hard-working family can build a farm that's worth $2 million, especially when you consider inflation. For good land and well-kept equipment, that's not an exorbitant amount of money.

But it's almost impossible to see how those who inherit the farm are able to keep it when they also inherit a $1 million tax liability.

In another case, an elderly couple from southern Delaware is currently struggling to plan their estate so it adequately provides for their handicapped daughter while it also allows their son to continue the family farming operation. Unfortunately, with a projected estate tax bill of over $500,000, it is most likely that they also will have to sell their family farm just to appease Uncle Sam's insatiable appetite for taxes.

Mr. President, it's time for change. And the legislation I've authored—legislation to provide estate tax relief—is an important measure toward creating the change we need. The Family Business Estate Tax Relief Act—completely bipartisan legislation—will exempt from the estate tax a full $1.5 million of the value of the deceased individual's interest in a family business. If the business or farm is worth more than $1.5 million, our legislation cuts the additional tax rate in half.

This exemption and rate cut are in addition to the current law's exclusion for up to $600,000 in personal and business assets. In this way, a family could protect a business valued up to $4.2 million, if that business were owned by a husband and wife. To make certain that the tax relief is going to protect family-owned businesses, our legislation requires that surviving members keep the business for up to 10 years. It applies only to businesses that are family owned and that are located within the United States.

Mr. President, this legislation is important not only for our families, but for our Nation. It restores proper perspective to what this political experiment is all about—encouraging the American Dream. There is nothing more important to that dream than the family, its business, and its farm. I encourage all my colleagues to join us in this bipartisan effort to once again make Uncle Sam a relative that folks will want to see come visit.

By Mr. COHEN:

S. 1088. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

THE HEALTH CARE FRAUD AND ABUSE PREVENTION ACT OF 1995

• Mr. COHEN. Mr. President, earlier this year I introduced S. 245, the Health Care Fraud Prevention Act. This bill, which was cosponsored by a bipartisan group of 21 Senators, was similar to legislation I introduced last year that ultimately was incorporated into a number of the major comprehensive health care reform proposals. Unfortunately, hopes for enactment of my

fraud and abuse proposal faded since comprehensive health care reform was not passed by the Congress last year.

Regardless of whether we enact overall health care reform, it is vital that we no longer delay in adopting tough measures to crack down on the fraud and abuse that robs billions of dollars from our health care system each year. Estimates are that we are losing as much as $100 billion each year to health care fraud and abuse, with as much as 30 percent of those losses to the Medicare and Medicaid programs alone. As we embark upon the debate on how to achieve savings in, and control the growth of, Medicare and Medicaid, we must not overlook the very real savings that can be obtained by closing the doors of these programs to fraud and abuse.

Since I introduced S. 245 in January of this year, I have solicited comments on this legislation from a host of law enforcement agencies, health care provider groups, and experts in criminal law and health care. My purpose in seeking and reviewing comments on my legislation was to ensure that health care fraud legislation be tough on those who intentionally scam or defraud the health care system, but also be fair and workable in practice, and not inadvertently penalize honest health care providers who inadvertently run afoul of complicated health care regulations. I strongly believe that it is necessary, and possible, to strike the appropriate balance of being very tough on health care fraud while not entrapping or unduly burdening health care providers and businesses who are simply trying to follow the rules.

The bill that I am introducing today reflects this delicate balance. It is the product of many months of work by my staff on the Senate Special Committee on Aging to respond to comments by many experts in law enforcement, health care, and the health care provider community. The changes made to S. 245 by this legislation I am introducing today are both comprehensive in nature and extremely workable.

For example, this bill alters the extension of the Social Security Act anti-kickback statute and civil monetary penalties. Under this legislation, these penalties would be extended to cover all Federal Health Care Programs, not just Medicare and Medicaid.

Another major change deals with the exclusion of individuals from Medicare for certain health care fraud violations. Under the proposal I am introducing today, the reach of this exclusion has been refined from my previous legislation so that individuals not directly involved in the fraudulent activity would not be unduly penalized or discouraged from serving on boards of hospitals or other health care organizations. This legislation contains many other refinements to S. 245 that will go far in achieving coordinated, effective, and fair response to health care fraud and abuse.

Mr. President, the costs of health care fraud and abuse to our health care system are staggering: As much as 10 percent of U.S. health care spending is lost to fraud and abuse each year. For Medicare and Medicaid, the Federal Government pays as much as $27 billion each year in fraudulent and abusive claims. Enactment of this legislation therefore has the potential to save the taxpayers and American public millions, if not billions of dollars each year.

I would like to thank all those individuals from law enforcement and the health care industry who have come forth with pragmatic and creative solutions to a growing and pernicious problem, and I ask unanimous consent that a section-by-section analysis of the changes have been made to S. 245 and a copy of my legislation be included in the RECORD.

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

S. 1088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 101. Fraud and abuse control program.
Sec. 102. Application of certain health anti-fraud and abuse sanctions to all fraud and abuse against any Federal health program.
Sec. 103. Health care fraud and abuse guidance.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 201. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 204. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 205. Intermediate sanctions for medicare health maintenance organizations.
Sec. 206. Effective date.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 301. Establishment of the health care fraud and abuse data collection program.

TITLE IV—CIVIL MONETARY PENALTIES

Sec. 401. Social Security Act civil monetary penalties.

TITLE V—AMENDMENTS TO CRIMINAL LAW

Sec. 501. Health care fraud.
Sec. 502. Forfeitures for Federal health care offenses.
Sec. 503. Injunctive relief relating to Federal health care offenses.
Sec. 504. Grand jury disclosure.
Sec. 505. False Statements.
Sec. 506. Obstruction of criminal investigations of Federal health care offenses.
Sec. 507. Theft or embezzlement.
Sec. 508. Laundering of monetary instruments.
Sec. 509. Authorized investigative demand procedures.

TITLE VI—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 601. State health care fraud control units.

TITLE VII—MEDICARE BILLING ABUSE PREVENTION

Sec. 701. Implementation of General Accounting Office recommendations regarding medicare claims processing.
Sec. 702. Minimum software requirements.
Sec. 703. Disclosure.
Sec. 704. Review and modification of regulations.
Sec. 705. Definitions.

TITLE I—FRAUD AND ABUSE CONTROL PROGRAM

SEC. 101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human Services (in this title referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act (42 U.S.C. 1320a–7, 1320a–7a, and 1320a–7b) and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 103.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) GUIDELINES.—

(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

(B) INFORMATION GUIDELINES.—

(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (42 U.S.C. 1320c-6(a)) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

(4) INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary, the Attorney General, the Director of the Federal Bureau of Investigation, and the Inspectors General of the Departments of Health and Human Services, Defense, Labor, and Veterans Affairs, of the Office of Personnel Management, and of the Railroad Retirement Board, for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts, from the Health Care Fraud and Abuse Control described in subsection (b) of this section, as may be necessary to enable the Secretary, the Attorney General, and such Inspectors General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

(b) HEALTH CARE FRAUD AND ABUSE CONTROL.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established the Health Care Fraud and Abuse Control. There are hereby appropriated to the Health Care Fraud and Abuse Control—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Health Care Fraud and Abuse Control as provided in sections 501(b) and 502(b), and title XI of the Social Security Act; and

(iii) such amounts as are transferred to the Health Care Fraud and Abuse Control under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Health Care Fraud and Abuse Control is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Health Care Fraud and Abuse Control, for the benefit of the Health Care Fraud and Abuse Control or any activity financed through the Health Care Fraud and Abuse Control.

(C) TRANSFER OF AMOUNTS.—The Secretary of the Treasury shall transfer to the Health Care Fraud and Abuse Control, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

(i) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(2) GENERAL USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Health Care Fraud and Abuse Control shall be available, as provided in appropriation Acts, to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under subsection (a), including the costs of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this title.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Health Care Fraud and Abuse Control to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—Amounts in the Health Care Fraud and Abuse Control shall be available, as provided in appropriation Acts, to the Inspectors General of the Departments of Health and Human Services, Defense, Labor, and Veterans Affairs, of the Office of Personnel Management, and of the Railroad Retirement Board, to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by any such Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

(4) ADDITIONAL USE OF FUNDS BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—Amounts in the Health Care Fraud and Abuse Control shall be available, as provided in appropriation Acts, to the various State medicaid fraud control units to reimburse such units upon request to the Secretary for the costs of the activities authorized under section 1903(q) of the Social Security Act (42 U.S.C. 1396c(q).

(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Health Care Fraud and Abuse Control in each fiscal year.

(c) HEALTH PLAN DEFINED.—For purposes of this section, the term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(1) a policy of health insurance;

(2) a contract of a service benefit organization;

(3) a membership agreement with a health maintenance organization or other prepaid health plan; and

(4) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 103. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a-7a and 1320a-7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 201. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) of such Act (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, of a criminal offense consisting

of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 202. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 204. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 205. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 206. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1996.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 301. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary (in this title referred to as the "Secretary") shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41)) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given such term by section 101(c).

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting "and section 301 of the Health Care Fraud and Abuse Prevention Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

TITLE IV—CIVIL MONETARY PENALTIES

SEC. 401. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud and Abuse Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control established under section 101(b) of such Act.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

TITLE V—AMENDMENTS TO CRIMINAL LAW

SEC. 501. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 101(c) of the Health Care Fraud and Abuse Prevention Act of 1995.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control established under section 101(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 502. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control established under section 101(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. 503. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 504. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 505. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 101(c) of the Health Care Fraud and Abuse Prevention Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 506. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, in amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 507. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or Embezzlement in Connection with Health Care.

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 101(c) of the Health Care Fraud and Abuse Prevention Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 508. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 509. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized Investigative Demand Procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 101(c) of the Health Care Fraud and Abuse Prevention Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"§ 3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

TITLE VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 601. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(F)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Paragraph (4) of section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

TITLE VII—MEDICARE BILLING ABUSE PREVENTION

SEC. 701. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this title referred to as "ADPE") meeting the requirements of section 702 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 702. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this title shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 703. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 701(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 701(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 704. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 701.

SEC. 705. DEFINITIONS.

For purposes of this title—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

SECTION-BY-SECTION OF CHANGES TO S. 245

Fraud and Abuse Control Program: The All-payer Fraud and Abuse Control Program is now called the Fraud and Abuse Control Program as extensions of certain Social Security Act provisions will be extended to federal programs only.

The HHS Secretary and the Attorney General will be able to establish the coordinated anti-fraud and abuse control program by guidelines rather than by regulation.

The section relating to the disclosure of ownership information is deleted as the Inspector General already has standards relating to the disclosure of this information.

Technical corrections were made to the section on ensuring access to documentation.

Health Care Fraud and Abuse Control: The provision is clarified so that funds that are dedicated to anti-fraud activities must go through the appropriations process so that there is proper congressional oversight.

Anti-Kickback Statute: The Social Security Act Anti-Kickback statute is extended to all federal health care programs (it currently applies only to the Medicare and Medicaid program). The statute would not be extended to private health care plans.

Health Care Fraud and Abuse Guidance: In order to give better guidance to the health care industry, the Inspector General is required to issue interpretive rulings within 90 days of the date of request. If the Inspector General does not issue an interpretive ruling, it shall notify the requestor within sixty days of the request and give the reasons for denial. Clarifies that a "substantive ruling" is defined as it appears in the Administrative Procedure Act.

Deletes the requirement that, in order to issue a special fraud alert, the Inspector General shall consult the Attorney General.

Reporting of Fraudulent Activities under Medicare: Deletes the requirement that the HHS Secretary establish a program through which Medicare beneficiaries may report fraud to the Secretary, since such a program has been established.

Mandatory Exclusion from Participation in Medicare and Medicaid: Clarifies that mandatory exclusion from participation in Medicare and Medicaid is limited to those individuals convicted of a felony relating to health care fraud. A permissive exclusion is created for those convicted of other types of government fraud.

Permissive Exclusion of Individuals with Ownership or Control Interest in Sanctioned Entities: Clarifies that permissive exclusion of individuals with controlling interest in sanctioned entities be limited to those who

are either officers of, or managing employees of, the entity and deletes references to those individuals who might sit on the board of directors or who might be an agent of the entity. Deletes the exclusion authority for those convicted of a civil monetary penalty (but retains the conviction and exclusion requirements).

Intermediate Sanctions for Medicare HMO's: Sets up a requirement that, before the application of intermediate sanctions (civil monetary penalty of up to $10,000 per week) on a Medicare HMO for program violations, the HHS Secretary must determine that the HMO has failed to comply with a corrective action plan within a reasonable amount of time. Also states that the Secretary may impose intermediate sanctions on a Medicare HMO if it is carrying out a contract in a manner that is substantially inconsistent with the efficient and effective administration of the underlying section.

Health Care Fraud and Abuse Data Collection Program: Requires that final adverse actions that are reported to the fraud and abuse data collection program indicate whether such action is on appeal. Also requires that malpractice decisions not be included in the data collection program and that an identifying number be included along with the names of health care providers, suppliers, or practitioners who are the subject of final adverse actions and who are included in the data collection program. Also exempts federal agencies from paying fees for disclosure of such information.

Civil Monetary Penalties: The Social Security Act civil monetary penalty provisions are extended to all federal health care programs (it currently applies to only the Medicare and Medicaid programs). Civil monetary penalties would not be extended to all private health care plans.

Excluded Individual Retaining Ownership Or Control Interest in Participating Entity: Deletes "director, agent" and retains "officer or managing employee."

Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services: The imposition of a civil monetary penalty for upcoding requires a pattern or practice of presenting claims. It also changes the civil monetary penalty standard in the case of upcoding from "knows or should knows" to "knows or has reason to know" that such action would result in a greater payment. The standard for the imposition of a civil monetary penalty for medically unnecessary services was changed to "knows or has reason to know" as well.

Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans: The term "remuneration" does not include differentials in coinsurance and deductible amounts as long as the differentials have been disclosed in writing to all third party payors, beneficiaries and providers. The differentials will meet the standards as defined in regulations which the Secretary must promulgate within 180 days. Remuneration also does not include incentives given to individuals to promote the delivery of preventive care as determined by the Secretary within 180 days.

Health Care Fraud Statute: The "Willful" standard was added to the knowledge standard of the Title 18 health care fraud statute. In addition, if violations of the new health care fraud statute result in serious bodily injury, the violator may be subject to as much as a life imprisonment sentence.

Forfeitures for Federal Health Care Offenses: The forfeiture provision no longer allows the forfeiture of property that is used in the commission of a health care fraud offense but calls for the forfeiture of property that constitutes or is derived (directly or indirectly) from the proceeds traceable to the commission of the offense. Fraud in the federal workmen's compensation program was also added to the list of federal health care offenses.

False Statements: Technical corrections were made to the false statement section so that a "health plan" is defined.

Voluntary Disclosure: The requirement to establish a voluntary disclosure program is deleted since a similar program was recently created.

Theft or Embezzlement in Connection with Health Care: Technical corrections were made to the theft or embezzlement section so that "health plan" is defined.

Authorized Investigative Demand Procedures: This section gives authority to the Attorney General or a designee to utilize an administrative subpoena for investigations with respect to health care fraud. The Inspectors General currently have this authority and this section gives the Attorney General or a designee similar authority.

State Health Care Fraud Control Units: The State Medicaid Control Unit authorization language has been changed so that those units will have concurrent authority to investigate and prosecute health care fraud in other Federal programs at the approval of the relevant federal agency. Their authority to investigate and prosecute patient abuse also has been extended into non-Medicaid "board and care" facilities.

Commercial Technology for Medicare Claims Processing: This section requires Medicare carriers to acquire commercial automatic data processing equipment to process Medicare Part B claims for the purpose of identifying billing code abuse.•

By Mr. LEAHY:

S. 1089. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to prevent and control the infestation of Lake Champlain by zebra mussels, and for other purposes; to the Committee on Environment and Public Works.

THE LAKE CHAMPLAIN ZEBRA MUSSEL CONTROL ACT

• Mr. LEAHY. Mr. President, today I am pleased to introduce the Lake Champlain Zebra Mussel Control Act of 1995. A year ago, the Senate accepted my amendment to address the growing problem of zebra mussels and their threat to drinking water systems. Unfortunately, the House did not concur, and now the problem has reached epidemic proportions.

We enter a critical stage in our efforts to preserve Lake Champlain and other Vermont lakes from a zebra mussel explosion that could become an economic and ecological catastrophe. Vermonters have feared the arrival of this dreaded mollusk for a long time. We didn't ask for them, and were powerless to prevent them from arriving on our lakeshores. But now they are with us—and they are multiplying out of control.

In 1993 the mussel was discovered in the South Lake near Orwell, VT, by a young boy who had learned how to identify the zebra mussel by a wallet-sized identification card distributed by the Lake Champlain Basin Program. During the summer of 1994, the zebra mussel larvae reached a density of about 1,500 to 3,000 per cubic meter. This year, less than 3 years from the mussels' introduction, the Rutland Herald reported that zebra mussel larvae densities have been found throughout the lake at about 60,000 to 109,000 per cubic meter with some concentrations as high as 134,000 per cubic meter—almost as high as the worst sites in the Great Lakes.

The zebra mussels in Lake Champlain deserve immediate and swift action. This pest poses a serious risk to the water resources throughout Vermont and the health and safety of the people of Vermont.

Twenty-five percent of Vermont's families rely on Lake Champlain for their drinking water. The onslaught of zebra mussels and their astonishing ability to establish dense colonies in a matter of weeks, jeopardizes the intake pipes for water systems up and down the shore. Municipal, residential, industrial, and even the water systems to motors on recreation boats are threatened. Furthermore, the mussels don't just clog the ends of the pipes. Zebra mussels have been known to establish colonies in the piping system causing multiple effects on the quality of drinking water. A recent Cornell University report points out that

> Once in a water intake line, zebra mussels can colonize any part of the system from the mouth of the intake in the lake or river to the distribution pipes within the residence. Impacts of this colonization include loss of pumping efficiency, obstruction of foot valves, putrefactive decay of mussel flesh, production of obnoxious-tasting and foul-smelling methane gas, and increased corrosion of steel, iron, and copper pipes.

Another potential threat to Vermont is the zebra mussel's impact on Vermont's fish stocking program. These mussels, reproducing at staggering rates, can close off hatchery piping and are threatening the State's multi-million-dollar sport fishing economy. In fact, Vermont's largest hatchery in Grand Isle, a $16 million facility, is risking total shut down if it loses its ongoing battle with the zebra mussel. When zebra mussels infest beaches, summer swimmers are forced to wear sneakers or sandals to avoid getting cut from the sharp shells. We can only speculate what the impact will be on submerged shipwrecks, real estate, summer cottages, and the tourism industry.

Finally, the zebra mussels have arrived without their natural competitors and are spreading through the lake ecosystem unchecked. As colonies develop throughout freshwater bodies, they could displace all seven native mussel species in the Lake Champlain Basin, including the endangered black sandshell mussel. Scientists say all species are at risk because zebra mussels are known to colonize right on the

backs of native mussels and choke them off from food and fresh water. Zebra mussels could throw entire aquatic ecosystems out of balance by disrupting the food chain, changing water chemistry, and altering physical habitat.

Mr. President, 6 months ago I came to the Senate floor during the debate on the unfunded mandates bill to warn people of the real unfunded mandates that our States face—zebra mussels is one of them. While most of my colleagues supported S. 1 in an attempt to ease financial burdens by relaxing national standards and undermine Federal regulations, I pointed out that without national standards, States face the financial burdens of water pollution from upstream and out-of-State polluters, forest decay from acid rain, and flooding from wetland loss. Today, my State faces one of the financial burdens that could have been controlled with stricter national standards. I have already mentioned the $16 million hatchery and the water systems for one-quarter of my State. My State of Vermont faces a problem with no known cure and the costs could be astronomical. I hope that those who supported S. 1 to reduce State costs by limiting Federal standards recognize soon that their effort may have had the exact opposite effect.

My Lake Champlain Zebra Mussel Control Act would do five things to address the present threat and prevent further spreading of zebra mussels throughout the country.

The Lake Champlain Zebra Mussel Control Act specifically includes Lake Champlain in Federal programs designed to fight the zebra mussel. As America's "sixth Great Lake" with one of the greatest emerging zebra mussel problems and a destination for thousands of boaters, it is essential that Lake Champlain be included in any national effort to address the problem.

My bill also establishes national voluntary guidelines for recreational boaters who are the chief mechanism for the spread of these mussels within New England. These guidelines will help States inform boaters of the steps they can take personally to stop the spread of zebra mussels into new areas. With 70 million people living within 1 day's drive of Lake Champlian, the potential for the spread of these mussels to other lakes and waterways is great. All boaters will know that this is a national concern with clear protocols on how to stop the spread, and States can choose to enforce the guidelines as mandatory regulations if they believe the threat is justified.

The legislation also allows States to work cooperatively on watershed approaches to the prevention and treatment of zebra mussels. If my State of Vermont devoted millions of dollars in time and resources to fight the mussel and our neighbors on Lake Champlain did nothing, the effort would be futile. Section 4 of my bill emphasizes that sometimes the watershed-based efforts like those of the Lake Champlain Basin Program are the best approaches to complex environmental problems.

The bill designates the University of Vermont as a Sea Grant College eligible for zebra mussel funding. Ironically, the only State in New England with a confirmed zebra mussel problem is also the only State in New England without a Sea Grant College. My bill changes this. Also, recognizing that zebra mussels are not just a coastal problem or a Great Lakes problem any more, my bill authorizes land-grant colleges to compete for zebra mussel research funding.

Finally, my legislation reauthorizes the Aquatic Nuisance Species Control Act, Public Law 101-646, and extends the appropriations authority through the year 2000. To address the current need to find control solutions, my bill doubles the current appropriation of the Army Corps of Engineers to $4 million. It is crucial that the Army Corps has adequate funding to pursue zebra mussel control technology. Since the Army Corps has used its full authority in recent years, doubling the authorization will assure they have access to the proper resources to do a thorough job.

There is one further issue that my bill does not address, but represents an important piece of the fight to stop the introduction of new exotic and harmful species. The lamprey and the zebra mussels were both imported through the ballast tanks of international shippers. In recent years, the ruffe, a small fish, was introduced the same way and while it is not yet in Lake Champlain, its population is expanding in the Great Lakes. My colleagues Senator GLENN, the original author of the Aquatic Nuisance Species Act, and Senator SARBANES will introduce a bill that addresses the loopholes in current ballast water controls that allow shippers to unleash these devastating and costly pests into our State waters. I hope to make America's fresh water resources completely off limits for expensive and damaging exotic pests. I look forward to working with Senators GLENN and SARBANES to address all of these issues comprehensively.

Mr. President, I present this bill with the hope that the Senate will act on it in a timely manner. Every minute that we delay allows the zebra mussels to multiply exponentially and risks the physical and economic health of Vermont. To turn our backs on this problem of national significance only guarantees that it gets much worse. Just ask my colleagues who knew little or nothing about zebra mussels as recently as a few years ago, and are now plagued by their existence.•

By Mr. LEAHY (for himself, Mr. BROWN and Mr. KERRY):

S. 1090. A bill to amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for public access to information in an electronic format, and for other purposes; to the Committee on the Judiciary.

THE ELECTRONIC FREEDOM OF INFORMATION IMPROVEMENT ACT OF 1995

• Mr. LEAHY. Mr. President, today I am joined by Senators BROWN and KERRY in introducing the Electronic Freedom of Information Improvement Act.

This bill would increase public access to the electronic records of Federal agencies, and take long overdue steps to alleviate the delays in processing requests for Government records. In the last Congress, a unanimous Judiciary Committee reported the bill, which then passed the Senate by voice vote on August 25, 1994.

The emerging national information infrastructure [NII] will consist of interconnected computer networks and databases that can put vast amounts of information at users' fingertips. Such an information infrastructure will give the public easy access to the immense volumes of information generated and held by the Government. Individual Federal agencies are already contributing to the development of the NII by using technology to make Government information more easily accessible to our citizens. For example, the Internet Multicasting Service [IMS] now posts massive Government data archives, including the Securities and Exchange Commission EDGAR database, and the U.S. Patent and Trademark Office database on the Internet free of charge. Similarly, FedWorld, a bulletin board available on the Internet, provides a gateway to more than 60 Federal agencies.

The Electronic Freedom of Information Improvement Act would contribute to that information flow by increasing online access to Government information, including agency regulations, opinions, and policy statements, and FOIA-released records that are the subject of repeated requests.

Some agencies are taking important steps in this direction. For example, the Department of Energy compiled a database of photographs and texts describing federally sponsored tests of radiation on human beings and made that database available on the World Wide Web. Now, instead of responding to multiple requests for the same documents on Government human irradiation experiments, DOE has efficiently used technology to make this material affirmatively available to interested citizens. This bill would require all Federal agencies to make records that are the subject of multiple FOIA requests available electronically.

The bill would also require all Federal agencies to use technology to make Government more accessible and

accountable to its citizens by requiring an assessment of how new computer systems will enhance agency FOIA operations to avoid erecting barriers that impede public access.

Federal agencies are increasingly dependent on computers to generate, store, and retrieve records electronically. This bill would ensure that these electronic records are available, in a timely manner, to requesters on the same basis as paper records. Specifically, the bill would clarify that FOIA covers all agency information in any format and would require agencies to release records in requested formats when possible.

The changes proposed in the bill are not just important for broader citizen access to Government records. Government information is a valuable commodity and a national resource. In fact, the Government is the largest single producer and collector of information in the United States. It is essential for American competitiveness that easy, fast access to that resource be available.

We have recognized that Government must take advantage of the benefits of new technologies to provide easier and broader dissemination of information. In 1993, we passed a law requiring that people have online access to important Government publications, such as the Federal Register, the CONGRESSIONAL RECORD and other documents put out by the Government Printing Office. Earlier this year, House Speaker NEWT GINGRICH unveiled "Thomas," an electronic archive available on the Internet that contains bills and congressional speeches. In his National Performance Review, the Vice-President has described his vision of the electronic Government of the future, where information technology will enable people to have access to public information and services when and where they want them.

Making Government information readily available electronically on people's computers can help to revitalize citizens' interest in learning what their Government is doing and better their understanding of the reasons underlying Government actions. This would, I believe, help reduce cynicism about Government.

This electronic FOIA bill is an important step forward in using technology to make Government more accessible and accountable to our citizens.

In addition, Federal agencies must work to reduce the long delays, which in some agencies stretch to over 2 years, that it takes to give responses to FOIA requests. Because of these delays, newspaper reporters, students and teachers, and others working under time deadlines have been frustrated in using FOIA to meet their research needs. This works to the detriment of us all.

These delays are intolerable. This is not the level of customer service the American people deserve from their public servants. The American taxpayer has paid for the collection and maintenance of this information and should get prompt access to it upon request. That is what the law requires and that is the standard of service Government agencies should meet. Long delays in access can mean no access at all.

The bill addresses the delay problem in several ways: First, the bill doubles the 10-day statutory time limit to 20 days to give agencies a more realistic time period for responding to FOIA requests. Second, the bill encourages agencies to implement a two-track processing system for simple and complex requests. Third, the bill provides for expedited access to requestors who demonstrate a compelling need for a speedy response. Finally, the bill gives agencies an incentive to comply with statutory time limits by allowing agencies in compliance to retain half of their fees, instead of submitting those fees to the general treasury as is currently the case. The fees the agencies can keep will be directed back to the agency FOIA operation to provide an incentive and resources to make these operations better and more efficient.

I look forward to working constructively with the administration and people in the FOIA community to keep FOIA up-to-date with new technologies and to ensure FOIA is an effective tool for open Government.

Mr. President, I ask unanimous consent that the bill, a section-by-section analysis, and a letter of support from 23 organizations representing a substantial portion of the FOIA requestor community, be inserted in the RECORD.

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

S. 1090

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 "Electronic Freedom of Information Improvement Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the purpose of the Freedom of Information Act is to require agencies of the Federal Government to make certain agency information available for public inspection and copying and to establish and enable enforcement of the right of any person to obtain access to the records of such agencies (subject to statutory exemptions) for any public or private purpose;

(2) since the enactment of the Freedom of Information Act in 1966, and the amendments enacted in 1974 and 1986, the Freedom of Information Act has been a valuable means through which any person can learn how the Federal Government operates;

(3) the Freedom of Information Act has led to the disclosure of waste, fraud, abuse, and wrongdoing in the Federal Government;

(4) the Freedom of Information Act has led to the identification of unsafe consumer products harmful drugs, and serious health hazards;

(5) Government agencies increasingly use computers to conduct agency business and to store publicly valuable agency records and information; and

(6) Government agencies should use new technology to enhance public access to agency records and information.

(b) PURPSOES.—The purposes of this Act are to—

(1) foster democracy by ensuring public access to agency records and information;

(2) improve public access to agency records and information;

(3) ensure agency compliance with statutory time limits; and

(4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government.

SEC. 3. PUBLIC INFORMATION AVAILABILITY.

Section 552(a)(1) of title 5, United States Code, is amended—

(1) in the matter before subparagraph (A) by inserting "by computer telecommunications, or if computer telecommunications means are not available, by other electronic means," after "Federal Register";

(2) by striking out "and" at the end of subparagraph (D);

(3) by redesignating subparagraph (E) as subparagraph (F); and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) a complete list of all statutes that the agency head or general counsel relies upon to authorize the agency to withhold information under subsection (b)(3) of this section, together with a specific description of the scope of the information covered; and".

SEC. 4. MATERIALS MADE AVAILABLE IN ELECTRONIC FORMAT AND INDEX OF RECORDS MADE AVAILABLE TO THE PUBLIC

Section 552(a)(2) of title 5, United States Code, is amended—

(1) in the matter before subparagraph (A) by inserting ", including, within 1 year after the date of the enactment of the Electronic Freedom of Information Improvement Act of 1995, by computer telecommunications, or if computer telecommunications means are not available, by other electronic means," after "copying";

(2) in subparagraph (B) by striking out "and" after the semicolon;

(3) in subparagraph (C) by inserting "and" after the semicolon;

(4) by adding after subparagraph (C) the following new subparagraphs:

"(D) an index of all major information systems containing agency records regardless of form or format unless such an index is provided as otherwise required by law;

"(E) a description of any new major information system with a statement of how such system shall enhance agency operations under this section;

"(F) an index of all records which are made available to any person under paragraph (3) of this subsection; and

"(G) copies of all records, regardless of form or format, which because of the nature of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records under paragraph (3) of this subsection;";

(5) in the second sentence by striking out "or staff manual or instruction" and inserting in lieu thereof "staff manual, instruction, or index or copies of records, which are made available under paragraph (3) of this subsection"; and

(6) in the third sentence by inserting "and the extent of such deletion shall be indicated

on the portion of the record which is made available or published at the place in the record where such deletion was made" after "explained fully in writing".

SEC. 5. HONORING FORMAT REQUESTS.

Section 552(a)(3) of title 5, United States Code, is amended by—

(1) inserting "(A)" after "(3)";

(2) striking out "(A) reasonably" and inserting in lieu thereof "(i) reasonably";

(3) striking out "(B)" and inserting in lieu thereof "(ii)"; and

(4) adding at the end thereof the following new subparagraphs:

"(B) An agency shall, as requested by any person, provide records in any form or format in which such records are maintained by that agency.

"(C) An agency shall make reasonable efforts to search for records in electronic form or format and provide records in the form or format requested by any person, including in an electronic form or format, even where such records are not usually maintained but are available in such form or format.".

SEC. 6. DELAYS.

(a) FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(viii) If at an agency's request, the Comptroller General determines that the agency annually has either provided responsible documents or denied requests in substantial compliance with the requirements of paragraph (6)(A), one-half of the fees collected under this section shall be credited to the collecting agency and expended to offset the costs of complying with this section through staff development and acquisition of additional request processing resources. The remaining fees collected under this section shall be remitted to the Treasury as general funds or miscellaneous receipts.".

(b) PAYMENT OF THE EXPENSES OF THE PERSON MAKING A REQUEST.—Section 552(a)(4)(E) of title 5, United States Code, is amended by adding at the end thereof the following: "The court may assess against the United States all out-of-pocket expenses incurred by the person making a request, and reasonable attorney fees incurred in the administrative process, in any case in which the agency has failed to comply with the time limit provisions of paragraph (6) of this subsection. In determining whether to award such fees and expenses, a court should consider whether an agency's failure to comply with statutory time limits was not warranted and demonstrated bad faith or was otherwise unreasonable in the context of the circumstances of the particular request.".

(c) DEMONSTRATION OF CIRCUMSTANCES FOR DELAY.—Section 552(a)(4)(E) of title 5, United States Code, is further amended—

(1) by inserting "(i)" after "(E)"; and

(2) by adding at the end thereof the following new clause:

"(ii) Any agency not in compliance with the time limits set forth in this subsection shall demonstrate to a court that the delay is warranted under the circumstances set forth under paragraph (6) (B) or (C) of this subsection.".

(d) PERIOD FOR AGENCY DECISION TO COMPLY WITH REQUEST.—Section 552(a)(6)(A)(i) is amended by striking out "ten days" and inserting in lieu thereof "twenty days".

(e) AGENCY BACKLOGS.—Section 552(a)(6)(C) of title 5, United States Code, is amended by inserting after the second sentence the following: "As used in this subparagraph, the term 'exceptional circumstances' means circumstances that are unforeseen and shall not include delays that result from a predictable workload, including any ongoing agency backlog, in the ordinary course of processing requests for records.".

(f) NOTIFICATION OF DENIAL.—The last sentence of section 552(a)(6)(C) of title 5, United States Code, is amended to read: "Any notification of any full or partial denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request and the total number of denied records and pages considered by the agency to have been responsive to the request.".

(g) MULTITRACK FIFO PROCESSING AND EXPEDITED ACCESS.—Section 552(a)(6) of title 5, United States Code, is amended by adding at the end thereof the following new subparagraphs:

"(D)(i) Each agency shall adopt a first-in, first-out (hereafter in this subparagraph referred to as FIFO) processing policy in determining the order in which requests are processed. The agency may establish separate processing tracks for simple and complex requests using FIFO processing within each track.

"(ii) For purposes of such a multitrack system—

"(I) a simple request shall be a request requiring 10 days or less to make a determination on whether to comply with such a request; and

"(II) a complex request shall be a request requiring more than 10 days to make a determination on whether to comply with such a request.

"(iii) A multitrack system shall not negate a claim of due diligence under subparagraph (C), if FIFO processing within each track is maintained and the agency can show that it has reasonably allocated resources to handle the processing for each track.

"(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing that upon receipt of a request for expedited access to records and a showing by the person making such request of a compelling need for expedited access to records, the agency shall determine within 5 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such a request, whether to comply with such request. No more than one day after making such determination the agency shall notify the person making a request for expedited access of such determination, the reasons therefor, and of the right to appeal to the head of the agency. A request for records to which the agency has granted expedited access shall be processed as soon as practicable. A request for records to which the agency has denied expedited access shall be processed within the time limits under paragraph (6) of this subsection.

"(ii) A person whose request for expedited access has not been decided within 5 days of its receipt by the agency or has been denied shall be required to exhaust administrative remedies. A request for expedited access which has not been decided may be appealed to the head of the agency within 7 days (excepting Saturdays, Sundays, and legal public holidays) after its receipt by the agency. A request for expedited access that has been denied by the agency may be appealed to the head of the agency within 2 days (excepting Saturdays, Sundays, and legal public holidays) after the person making such request receives notice of the agency's denial. If an agency head has denied, affirmed a denial, or failed to respond to a timely appeal of a request for expedited access, a court which would have jurisdiction of an action under paragraph (4)(B) of this subsection may, upon complaint, require the agency to show cause why the request for expedited access should not be granted, except that such review shall be limited to the record before the agency.

"(iii) The burden of demonstrating a compelling need by a person making a request for expedited access may be met by a showing, which such person certifies under penalty of perjury to be true and correct to the best of such person's knowledge and belief, that failure to obtain the requested records within the timeframe for expedited access under this paragraph would—

"(I) threaten an individual's life or safety;

"(II) result in the loss of substantial due process rights and the information sought is not otherwise available in a timely fashion; or

"(III) affect public assessment of the nature and propriety of actual or alleged governmental actions that are the subject of widespread, contemporaneous media coverage.".

SEC. 7. COMPUTER REDACTION.

Section 552(b) of title 5, United States Code, is amended by inserting before the period in the sentence following paragraph (9) the following: ", and the extent of such deletion shall be indicated on the released portion of the record at the place in the record where such deletion was made".

SEC. 8. DEFINITIONS.

Section 552(f) of title 5, United States Code, is amended to read as follows:

"(f) For purposes of this section—

"(1) the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'record' means all books, papers, maps, photographs, machine-readable materials, or other information or documentary materials, regardless of physical form or characteristics; and

"(3) the term 'search' means a manual or automated review of agency records that is conducted for the purpose of locating those records which are responsive to a request under subsection (a)(3)(A) of this section.".

ELECTRONIC FOIA IMPROVEMENT ACT OF 1995

SUMMARY

SECTION 1. SHORT TITLE

The Act may be cited as the Electronic Freedom of Information Improvement Act of 1995.

SECTION 2. FINDINGS AND PURPOSES

This section clarifies that Congress enacted the FOIA to require Federal agencies to make records available to the public through public inspection and upon the request of any person for any public or private use. This section also acknowledges the increase in the government's use of computers and specifies that agencies should use new technology to enhance public access to government information.

The purposes of this bill are to improve public access to government information and records, and to reduce the delays in agencies' responses to requests for records under the Freedom of Information Act.

SECTION 3. PUBLIC INFORMATION AVAILABILITY

This section requires agencies to publish a complete list of statutes that the agency relies upon to withhold information under subsection (b)(3) of the Act. Exemption (b)(3)

covers information that is specifically exempted from disclosure by other statutes. These exemptions currently appear in non-FOIA bills and decrease information available to the public without review by the Judiciary Committee. In order to prevent ill-considered exemptions to the access mandate of the FOIA, this section would place specific limitations on an agency's ability to rely on the authority of (b)(3) exemption statutes when they have not passed through prescribed legislative channels and have not been previously brought to public attention through publication in the Federal Register.

The Office of Management and Budget has directed agencies to use electronic media and formats, including public networks, to make government information more easily accessible and useful to the public. (OMB Circular A-130, Revised, July 1994). To effectuate this goal, section 3 of the bill requires that information, such as agency regulations, which under the FOIA must be published in the Federal Register, should be accessible by computer telecommunications. The Government Printing Office Electronic Information Access Enhancement Act of 1993 ("GPO Act"), Pub. Law 103-40, already requires that the Federal Register and certain other congressional publications, be made available online. If an agency cannot make these materials available online, then the information should be made available in some other electronic form, such as CD-ROM or on disc.

SECTION 4. MATERIALS MADE AVAILABLE IN ELECTRONIC FORMAT AND INDEX OF RECORDS MADE AVAILABLE TO THE PUBLIC

The first part of this section would require that materials, such as agency opinions and policy statements, which an agency must "make available for public inspection and copying" pursuant to paragraph (a)(2) of Section 552, be made available electronically, as well as in hard copy. If an agency cannot make these materials available online, then the information should be made available in some other electronic form, such as CD-ROM or on disc. The bill would thus treat (a)(2) materials in the same manner as it treats (a)(1) materials, which under the GPO Act are required, via the Federal Register, to be made available online.

The second part of this section would require agencies to publish in the Federal Register an index of all major information systems containing agency records and a description of any new major information system with a statement of how it will enhance agency FOIA operations.

The third part of this section would require that an index of any records released as the result of "requests" for records pursuant to paragraph (a)(3) of Section 552 must be made available for public inspection and copying under paragraph (a)(2). This would assist requesters in determining which records have been the subject of prior FOIA requests. Since requests for records provided in response to prior requests are more readily identified by the agency without the need for new searches, this index will assist agencies in complying with the FOIA time limits.

Under the fourth part of this section, copies of records disclosed in response to FOIA requests that the agency determines have been or will likely be the subject of additional requests, must be made available for public inspection and copying in basically the same manner as the materials required to made available under paragraph (a)(2). As a practical matter, this would mean that copies of records released in response to FOIA requests on a popular topic, such as the assassinations of public figures, would subsequently be treated as (a)(2) materials, which are made available for public inspection and copying. This would reduce the number of multiple FOIA requests for the same records requiring separate agency responses.

The fifth part of this section would make clear that to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes the index and copies of records released in response to FIOA requests, as required under the third and fourth parts of section 4 of this bill.

The final part of this section would, consistent with the "Computer Redaction" requirement in Section 7 of the bill, require that any deletions made in electronic records be indicated at the place where such deletion was made.

SECTION 5. HONORING FORMAT REQUESTS

This section would require agencies to assist requesters by providing information in the form requested, if the agency has the information available in that form. In other words, requests for the electronic format of records, which are usually not maintained or stored in electronic form, should be honored when the records nevertheless exist and are available in the requested electronic form.

This section would overrule *Dismukes* v. *Department of the Interior*, 603 F. Supp. 760, 763 (D.D.C. 1984), which held that an agency "has no obligation under the FOIA to accommodate plaintiff's preference [but] need only provide responsive, nonexempt information in a reasonably accessible form."

SECTION 6. DELAYS

Fees.—In an effort to decrease the delays experienced by FOIA requesters, the bill would authorize agencies to retain one-half of the fees they collect if the agency complies with the statutory time limits for responding to requests. The fee retention provisions of the bill would reward agencies that meet the statutory time limits and should diminish the burdens on agencies with particularly heavy FOIA workloads. It will be very important to structure the compliance criteria so that the reward system operates effectively and without favoring any class of requesters over other classes.

Payment of the Expenses of the Person Making A Request.—The current statute allows for the award of attorneys' fees and other litigation costs in any case in which the complainant has reasonably prevailed. The bill would permit a court to award payment of requesters' litigation expenses and reasonable attorneys' fees incurred in the administrative process in any case in which the agency fails to comply with the time limits. In determining whether to make such an award, the bill directs the court to consider whether an agency's failure to comply with statutory time limits was not warranted and demonstrated bad faith or was otherwise unreasonable under the circumstances of the particular request.

Demonstration of Circumstances for Delay.—The bill would require agencies not in compliance with the time limits to demonstrate "that the delay is warranted under the circumstances." The bill would clarify the only circumstances that excuse compliance with the time limits are those unusual or exceptional circumstances set forth in paragraphs 6(B) and (C) of Section 552(a).

Expansion of Agency Response Time.—The bill would expand the time limit for an agency to respond to a request for records under FOIA from ten days to twenty days. Attorney General Janet Reno has acknowledged the inability of most federal agencies to comply with the ten-day rule as "as a serious problem" stemming principally from "too few resources in the face of too heavy a workload." A doubling of the time limit will assist federal agencies in reducing their backlogs.

Agency Backlogs.—The current statute provides that in "exceptional circumstances," the statutory time limits can be extended, but does not define what those circumstances can be. In *Open America* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976), the court held that an unforeseen 3,000 percent increase in FOIA requests in one year, which created a massive backlog in an agency with insufficient resources to process those requests in a timely manner, can constitute "exceptional circumstances."

Routine backlogs of requests for records under the FOIA should not give agencies an automatic excuse to ignore the time limits, since this provides a disincentive for agencies to clear up those backlogs. This section of the bill would clarify the holding in Open America by specifying that routine agency backlogs do not constitute exceptional circumstances for purposes of the Act.

Multitrack FIFO Processing.—An agency commitment to process requests on a first-come, first-served basis has been held to satisfy the requirement that an agency exercise due diligence in dealing with backlogs of FOIA requests. Some agencies have taken the position that they must process requests on a FIFO basis, even if this procedure may result in lengthy delays for simple requests due to the prior receipt and processing of complex requests. The bill would encourage agencies to implement multi-track processing systems for FOIA requests to reduce backlog.

Expedited Access.—The bill would authorize expedited access to requesters who demonstrate a "compelling need" for a speedy response. The agency would be required to make a determination whether or not to grant the request for expedited access within five days. The requester would bear the burden of showing, under penalty of perjury, that expedition is appropriate and would be required to satisfy strict time limits to obtain administrative and judicial review of an agency's denial of such a request. The bill would permit only limited judicial review based on the same record before the agency.

A "compelling need" warranting expedited access would be demonstrated by showing that failure to obtain the records within an expedited timeframe would: (I) threaten a person's life or safety; (II) result in the loss of substantial due process rights and the information sought is not otherwise available in a timely fashion; or (III) affect public assessment of the nature and propriety of actual or alleged governmental actions that are the subject of widespread, contemporaneous media coverage.

SECTION 7. COMPUTER REDACTION

The ability to redact information on the computer changes the complexion of released documents. At times, determining whether one sentence or 30 pages have been withheld by the agency is impossible. The bill would require agencies to indicate deletions of the released portion of the record at the place where such deletion was made.

SECTION 8. DEFINITIONS

The bill would add definitions of "record" and "search" to the statute to address electronically stored information. The current

FOIA statute does not define either term. The definition of "record" in the bill is an expanded version of the definition in the Federal Records Act, 44 U.S.C. 3301. There is little disagreement that the FOIA covers all government records, regardless of the form in which they are stored by the agency. The Department of Justice agrees that computer database records are agency records subject to the FOIA. See "Department of Justice Report on 'Electronic Record' Issues Under the Freedom of Information Act," S. Hrg. 102-1098, 102d Cong., 2d Sess. 33 (1992).

The bill defines "search" as "a manual or automated review" to locate records responsive to a FOIA request. Under the FOIA, an agency is not required to create documents that do not exist. Computer records located in a database rather than in a file cabinet may require the application of codes or some form of programming to retrieve the information. Under the definition of "search" in the bill, the search of computerized records would not amount to the creation of records. Otherwise, it would be virtually impossible to get records that are maintained completely in an electronic form, like electronic mail, because some manipulation of the information likely would be necessary to search the records.

JULY 27, 1995.

Hon. PATRICK J. LEAHY and HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATORS LEAHY AND BROWN: The organizations listed below, representing a substantial portion of the Freedom of Information Act requestor community, wish to express their strong support for the "Electronic Freedom of Information Improvement Act of 1995."

The Freedom of Information Act (FOIA) is a critical tool of our democracy which allows Americans to learn about their government and hold the government accountable for its actions. This legislation ensures that the public will be able to access agency records maintained in electronic form, and also takes steps to alleviate endemic delays in proceeding FOIA requests.

This legislation is needed to address new issues related to increased use of computers by federal agencies. It clarifies that the FOIA covers agency information in any form, including electronic form, and requires agencies to provide records in a requested form if the records are maintained in that form. The legislation also increases on-line access to government information, including agency regulations, opinions, and policy statements, as well as FOIA-related records that are the subject of repeated requests. This increased on-line accessibility of FOIA-releasable material is a critical step in using technology to make government more accessible and responsible to its citizens.

The "Electronic Freedom of Information Act" also will reduce agency delays in responding to FOIA requests. In recognition of the difficulty faced by some agencies in complying with FOIA time limits, the bill increases agency response time from 10 to 20 days, and allows agencies to retain half of the fees if they comply with statutory time limits. The legislation encourages agencies to implement two-track processing systems for simple and complex requests to assist in the reduction of backlogs, and establishes expedited access for requestors who demonstrate a compelling need for a speedy response.

By keeping the Freedom of Information Act up to date with new technologies and improving the administrative process, this legislation will help ensure that the Act remains an instrument for open and responsive government. We hope that this legislation, which last year passed the Judiciary Committee unanimously and the Senate by voice vote, will be enacted into law.

American Civil Liberties Union, American Library Association, American Society of Newspaper Editors, Association of American Publishers, Center for Democracy and Technology, Center for National Security Studies, Electronic Privacy Information Center, Federation of American Scientists, Fund for Constitutional Government, Government Accountability Project, Information Trust, and Lawyers Committee for Human Rights.

National Newspaper Association, National Security Archive, Newspaper Association of America, OMB Watch, People for the American Way Action Fund, Public Citizen, Radio-Television News Directors Association, Society of Professional Journalists, Taxpayer Assets Project, Unison Institute, and Whistleblowers Alliance, Inc.•

By Mr. CRAIG (for himself and Mr. CONRAD):

S. 1091. A bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE CANOLA AND RAPESEED RESEARCH PROMOTION AND CONSUMER INFORMATION ACT

• Mr. CRAIG. Mr. President, my purpose here today is to introduce the Canola and Rapeseed Research, Promotion, and Consumer Information Act. I am pleased to report that this piece of legislation is backed by the strong support of those in the canola and rapeseed industry.

Canola and rapeseed products are an important and nutritious part of the human diet, and the crops are in all regions of the United States. This crop is produced by thousands of growers and consumed by people all over the world. A total of 35 states grow over 330,000 acres, and that level is rapidly increasing. States such as Idaho see well over 40,000 acres devoted to this particular crop. As you can see, Mr. President, it is important that these readily available commodities are marketed efficiently to ensure that consumers have an adequate supply at a reasonable price.

Currently, a number of established State and national organizations exist whose primary goals include the research and promotion of their respective commodities. The cooperative development, financing, and implementation of a canola and rapeseed research, information, and promotion program is necessary to maintain and expand the existing markets, and to develop new markets for these important products.

In addition, this act will establish an orderly procedure for financing through assessments on domestically produced canola and rapeseed, and the development and implementation of a program of research, promotion, consumer and industry information.

It is the policy of this act to establish a concise and uniform method of requesting, issuing and amending orders relative to the canola and rapeseed industry. It will provide for a national canola and rapeseed board of 15 members who will administer and carry out programs and projects which provide maximum benefit to the industry.

Under this act, assessments will be levied on those products produced and marketed in the United States and will be deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser. The assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed in a State, or a rate of 2 cents per hundredweight for States with a State checkoff.

Essentially, this act will enable the industry to create a commodity driven and commodity controlled checkoff program. The idea of a checkoff is not new, and generic promotional and research programs funded through voluntary checkoff contributions have been working at all levels of government for over 50 years. Considering the limited resources of the Federal Government in all areas, especially agriculture, I believe that programs of this nature will become increasingly important. I highly commend everyone involved in the canola and rapeseed industry for their efforts in bringing this checkoff to the attention of the Congress.

Mr. President, I urge my colleagues to join me in enabling this industry to shape its own future. I ask unanimous consent that a section-by-section summary of the bill be placed in the RECORD.

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

CANOLA AND RAPESEED RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT—JULY 28, 1995

SECTION-BY-SECTION ANALYSIS

Section 1: Short Title; Table of Contents.

The short title is the "Canola and Rapeseed Research, Promotion, and Consumer Information Act."

Section 2: Findings and Declaration of Policy.

Canola and Rapeseed products are important components of the human diet.

There are several state and national organizations whose primary goal is to promote canola and rapeseed research, consumer information, and industry information which is valuable to the new and existing markets. The cooperative development, financing, and implementation of a coordinated national program is vital to this market.

Section 3: Definitions.

This section gives specific definitions for words and phrases used throughout this bill.

Section 4: Issuance and Amendment of Orders.

In general, the Secretary shall issue the orders only upon request of the industry. This order shall be national in scope and not more than one order shall be in effect at any one time.

Section 5: Required Terms in Orders.

This section gives the specific terms and conditions to be met by any order. It also specifies the organization of the Board and other members, and gives guidelines for day to day operations.

The Board consists of 15 members. Additionally, there shall be no more than 4 producer members of the Board from any state.

Section 6: Assessments.

This section describes the required provisions for collection and refund of assessments.

The assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed in a state. The rate is 2 cents per hundredweight for states with an approved checkoff.

Section 7: Referenda.

The Secretary shall conduct a referendum among producers during the period ending 30 months after the date the order was issued to determine whether the order should be continued.

Section 8: Petition and Review.

Anyone subject to an order may file a petition with the Secretary.

Section 9: Enforcement.

This section deals with the jurisdiction, process, and penalties in regards to the enforcement of an order.

Section 10: Investigations and Power to Subpoena.

The Secretary may make investigations as he or she sees fit in order to ensure that no violations of specific regulations have occurred and to ensure that there are no abuses of those regulations.

Section 11: Suspension or Termination of an Order.

The Secretary has the power to terminate any order that is no longer conducive to the industry.

Section 12: Regulations.

The Secretary may issue any regulations necessary to carry out this act.

Section 13: Authorizations and Appropriations.

This section deals with the appropriation of funds for this act.●

By Mr. McCONNELL:

S. 1092. A bill to impose sanctions against Burma, and countries assisting Burma, unless Burma observes basic human rights and permits political freedoms; to the Committee on Foreign Relations.

THE 1995 FREE BURMA ACT

● Mr. McCONNELL. Mr. President, today, I am introducing the 1995 Free Burma Act. I had planned to introduce the legislation on July 11, the date the State Law and Order Restoration Council—SLORC—was to reach a determination about the status of Aung San Suu Kyi. Fortunately for Suu Kyi, her family and Burma, SLORC decided to release her from 6 years of house arrest.

Everyone hoped that her release would mark the beginning of significant change in Burma. But, as Suu Kyi recently remarked, "We are nowhere near democracy. I have been released—that is all. The situation has not changed in any other way."

Two weeks ago, I announced that I would refrain from introducing sanctions legislation in the interests of determining just how serious the SLORC was about change in Burma. I indicated that I would monitor the situation and determine if progress was made in four areas before introducing sanctions. Let me review those conditions.

First, Suu Kyi has called for dialog with the SLORC to negotiate the peaceful transfer of power. In her first public statement she took note of the fact that a majority of the people in Burma voted for democracy and a market economy in 1990. In fact her National League for Democracy carried 392 seats in Parliament. A dialog to set Burma on the road to economic and political recovery should being immediately and without preconditions.

Second, Suu Kyi must continue to be afforded the opportunity to meet with her political supporters. It is essential that she have freedom of movement and speech and that her supporters and the press enjoy the same rights.

Third, Suu Kyi urged the SLORC to release all political prisoners, including the 16 elected members of Parliament and hundreds of other NLD supporters. I hope this occurs promptly, but in the meantime, I think it is imperative that the SLORC sign and implement the ICRC agreement granting access to political detainees. Last month the ICRC announced they intend to withdraw from Burma after 7 years of attempting to negotiate an agreement with SLORC. I believe it would represent a good faith effort if SLORC now signed that agreement.

Finally, SLORC's intention to move toward national reconciliation could be demonstrated by ceasing attacks on ethnic minorities along the Thai border. Over the past year, SLORC has engaged in negotiations to reach cease-fire agreements with many of the ethnic groups—agreements which explicitly call upon the withdrawal of SLORC forces from various regions. In December, SLORC broke off talks and launched attacks against the Karen. Nearly 80,000 refugees fled across the border. Over the past several weeks several thousand SLORC troop have moved into the Kayah state and launched attacks against Karenni camps. News accounts report that 20,000 refugees have fled.

On Monday, this week, I asked Assistant Secretary of State for Asian Affairs, Winston Lord, Assistant Secretary for Narcotics, Robert Gelbard, to provide the administration's assessment of progress in meeting these conditions. I also asked a Burmese student, Omar Khin, and representatives from Asia Watch and the AFL-CIO to testify.

Although everyone agreed that Suu Kyi's release was an important development and that she was being afforded the opportunity to meet with her supporters, every witness expressed disappointment that that was all that has happened.

The war against ethnic groups continue. Political repression and human rights violations continue. In fact, just this week, Asia Watch released an extensive report detailing how the situation has deteriorated.

The Red Cross still plans to shut down operations because of SLORC's refusal to grant access to political prisoners. And, perhaps most importantly, no negotiations have been initiated by SLORC to implement the 1990 elections. In fact, no efforts have been made to set a date for dialog to begin.

It is pretty obvious that SLORC's decision to release Suu Kyi was a calculated move designed to encourage foreign investment and Burma's inclusion in ASEAN. Indeed, within 48 hours of her release, several governments announced their intention to consider expanding trade and assistance. I think it is too early to reward SLORC—these initiatives are premature.

I agree with Suu Kyi who has cautioned all potential investors. A recent AP story made clear that she is concerned about a rush to embrace SLORC. She has, in fact, welcomed this legislation as a means of pressuring SLORC to the table. In an AP story she said, "These are very tough sanctions and I think they have shown they are very interested in democracy."

The legislation sends the message that Suu Kyi's release is not enough—that the Senate expects SLORC to implement the results of the 1990 election and transfer power to a civilian government.

Mr. President, some people may wonder why Burma should matter to the United States. After all there are certainly other countries with comparable human rights records.

That may well be true. But, there is one compelling reason why we have a direct interest in Burma. Today, Burma is the source of 65 percent of the heroin coming into the United States compared with 15 percent 10 years ago. More alarming is the fact that purity has shot up. Law enforcement officials here in Washington and in Kentucky tell me they used to see purity around 2 percent to 3 percent on our streets. Now it is not uncommon to find purity levels from 25 percent to 65 percent.

The drug czar has said heroin trafficking represents a serious threat to our national interests. I agree. I also agree with Assistant Secretary Lord's testimony that the only thing that will solve the problem is a change in government.

Mr. President, we all hope that Suu Kyi's release marks the beginning of the end of repression in Burma. However, past experience with this military dictatorship suggests caution is the appropriate approach.

Suu Kyi has issued a statement of remarkable good will toward a regime that illegally held her in detention for 6 years. She has demonstrated courage and determination, stating immediately after her release that her detention has not changed her basic goals

to advance peace and freedom in Burma.

I think it is important that we respect and promote that agenda. Keeping the pressure on SLORC will assure that her release is translated from a symbolic gesture to real progress.

Mr. President, I ask unanimous consent to include in the RECORD several letters of support for this legislation which have come in from around the world. I also ask unanimous consent to include a brief summary of the legislation and an article including comments Suu Kyi has made about the legislation.

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

SENATOR MCCONNELL, MEMBERS OF THE PRESS: My name is Ohmar Khin. I am a Burmese student in exile who participated in the 1988 nationwide pro-democracy movement in Burma and experienced first-hand, the brutality of the current military regime. The memories of the events of 1988 are still vivid.

At that time, I was a senior student at Rangoon Arts and Science University majoring in Chemistry. On March 16, while walking to class with my friends, I saw students banging drums and calling others to gather nearby the Convocation Hall. They were protesting the death of a student who was shot by soldiers dispersing a demonstration three days earlier. My friends and I joined the protesters. As we marched passed Inya Lake we saw troops stationed on the road, blocking our way and riot police trucks rolling down the road.

Many students ran into nearby streets and some jumped into the lake. Others were beaten and kicked by police then dragged into the trucks. I was separated from my friends and ran into one of the houses in front of the lake. The residents let me and a few others in, locking their gate. From there, I watched the terrifying scene. My heart was pounding with fear. My sarong was torn apart. I was holding a pencil sharpener to defend myself if I were caught. Some troops tried to climb over the gate to catch us but a Japanese diplomat next door let us climb down into his residence and hid us in his house. It was night before I could finally get back home.

From that time there was a determination to fight for justice in our country. During the next few months students organized quietly. More and more people recognized the need for change in the country and joined this movement which led to the nationwide pro-democracy uprising of August 8, 1988, known as 8-8-88.

Tens of thousands of people, including monks and children, took to the streets that day, calling for democracy and human rights. I marched along with my colleagues and witnessed the horror of our own military shooting innocent people. One of the students marching next to me was shot to death.

During those months of struggle in 1988, hundreds of students were arrested, universities and colleges were closed. Thousands of students, like myself, were forced to flee the country.

I believe that democracy and human rights will truly come to Burma one day, but the help of the international community is critical in bringing about that change. Pressure brought to bear by the international community was instrumental in freeing Daw Aung San Suu Kyi and such pressure must continue until democracy is restored. The legislation planned by Senator McConnell calling for economic sanctions on the military regime is the type of initiative which will sustain such pressure.

The struggle of 1988 should not be forgotten. The spirit of the people and their desire to live under a just and democratic government remains strong. Senator McConnell's legislation can help the people of Burma achieve that goal.

NATIONAL COALITION GOVERNMENT
OF THE UNION OF BURMA,
OFFICE OF THE PRIME MINISTER,
Washington, DC, March 29, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I have recently learned of your intention to introduce a bill to impose US economic sanctions on Burma. On behalf of the democratically elected government of Burma, I am writing to give you my wholehearted support as well as that of my government in your effort.

The imposition of sanctions should never be taken lightly. Any measure designed to constrict the economy of a country will cause some degree of hardship to the people. However, I believe, and the democratic forces working to liberate our country believe, that foreign investment serves to strengthen the outlaw State Law and Restoration Council (SLORC). It is providing SLORC with the means to finance a massive army and intelligence service whose only job is to crush internal dissent. SLORC controls all foreign investment into Burma and channels contracts to the military and its party officials. Unlike other countries, investment will not serve to create a middle class of entrepreneurs, only reinforce allegiance to a regime that has murdered tens of thousands of people whose crime was the desire for democracy and to live in a free society. SLORC is in desperate need of foreign currency. Cutting off access to US funds will be a severe blow to SLORC.

Your decision to move forward on this issue will not be popular with the US business community or countries in Europe and Asia. There are many who place trade and money over Burma's deplorable narcotics, political, and human rights record. I applaud your courage and will do everything in my power to see you succeed.

The United States has a very special place in the hearts of my countrymen. During the massive democracy demonstrations in 1988, students could be seen marching in Rangoon carrying American flags and demonstrating in front of the US Embassy. Supporting us in our struggle is the International Republican Institute. This organization funds pro-democracy activities inside Burma. The Burmese people desperately want what Americans have: the ability to live in peace without fear of government persecution, respect for human rights, and social justice. American ideals will always be a symbol for what we can achieve.

I want to personally thank you for your leadership and raising your voice to support those who are oppressed. I look forward to assisting you in any way possible.

With my highest consideration,
Yours sincerely,

SEIN WIN,
Prime Minister.

THE GOVERNMENT OF KARENNI,
OFFICE OF THE PRIME MINISTER,
June 9, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC

DEAR SENATOR MCCONNELL: The Government and people of Karenni are happy to learn that you have prepared to legislate sanction against SLORC in the U.S. Congress.

We give all our support to your efforts and we thank the Senators and Congressmen who sponsored this legislation to impose economic sanctions on Burma.

Meanwhile, the Karenni National Progressive Party (KNPP) has entered a cease fire "understanding" with SLORC. This is done on convenience because we are pressured by intimidation from SLORC.

KNPP wants peace and progress. For this reason it has been fighting the war against SLORC and the Burmese Governments preceeded it. With the cease-fire in place, the KNPP hopes to be able to achieve progress. That was why it has agreed to a cease-fire with SLORC. But contrary to expectation, no progress is possible because the SLORC has reneged on its agreement with KNPP. It has, in the name of existing Burmese laws and regulations, put all kinds of obstacles in the way. Although the KNPP has reminded SLORC of the agreement reached between it and KNPP, the SLORC simply turns a deaf ear to the reminders. On the other hand it continues collecting porter fees—60 kyats per household—in some townships monthly. It is believed that the porter fees collected will be used in areas where cease-fire has not been reached or signed.

KNPP is of the opinion that only when there is a nation-wide cease-fire between SLORC and all armed groups fighting it, will the people be free from being made to contribute porter fees, to serve as porters and to contribute forced labour.

We, therefore, request the international organizations, like the UN or democratic countries, like the United States to put pressure on SLORC so that a nation-wide cease-fire in Burma can take place.

The hard-learned fact we now experienced as mentioned above is that the SLORC will continue its formally bullish practice over all the cease-fire signatories.

We find our national security is still precarious and there is no sign of democratic return in Karenni and also all over Burma itself. For this belief, we send a memorandum to sub-committee of House Foreign Affairs Committee, in which we seek U.S. protection and aids. A copy of this memorandum is sent to you by airmail postal service.

We wish you success in this efforts of yours.

May God bless you and your sponsorial comrades.

Your sincerely,

AUNG THAN LAY,
Prime Minister, Government of Karenni.

THE NEW MON STATE PARTY,
GENERAL HEADQUARTERS,
June 6, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

YOUR EXCELLENCY: Information of your efforts at imposing economic and trade sanctions on Burma under the brutal regime known as the State Law and Order Restoration Council (SLORC) is very encouraging to us. Current situation shows that, only by international economic and diplomatic pressure can liberate Burma from the atrocious control of the ruling military junta.

It appears that the world business community is now mesmerized by SLORC's promises of the proverbial pot of gold at the end of the rainbow. The economy is only open for the Burmese generals and their associates to line their pockets and they are in complete control of all business contracts and are interested in upfront money in the form of signature bonuses paid in dollars.

Any evidence offered that the regime is easing its oppression is superficial. What the military leadership is seeking is international legitimacy at the lest cost to itself.

In spite of no foreign threats whatsoever, SLORC is boosting up its armed forces to over 350,000 heading to 500,000 just to rule the country at gun point.

The best example of the Burmese leadership's political failure is their attitude toward the ethnic minorities. For nearly half a century it has used the bankrupt policy of a military solution to Burma's political problems. It just does not have adequate capacity to realize that Burma's ethnic problems are a political problem that requires a political solution.

May I urge you as President of the New Mon State Party and Chairman of the National Democratic Front to do everything possible to eliminate U.S. foreign investment in Burma until a legitimate democratic government is in power.

Yours truly,

NAI SHWE KYIN,
President.

KACHINLAND PROJECTS U.S.A.
FOR HUMAN RIGHTS
AND DEMOCRACY IN BURMA,
June 13, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I write on behalf of the Kachin-American & Friends USA, Inc., for Democracy and Human Rights in Burma, a US citizens' organization dedicated to the purpose of restoring democracy and human rights in Burma, especially in the Kachin areas. We want to let you know that we support your proposed resolution to impose trade sanctions against Burma most strongly. We are ready to support your leadership through active citizen input to our representatives in the U.S. Congress. If we could be of help in other ways please let us know.

We have been unspeakably outraged by the severe persecution of our people over the years for no apparent reason than the fact that they are Kachin. We have felt most painful and helpless because the one political movement, the Kachin Independence Organization, has been hand-tied by the cease-fire agreement. While Kachin leaders have been honor-bound, SLORC's oppression and predations against our people have continued, as has their despicable hypocrisy about opium production and trading.

We support in the strongest manner any pressure that could be applied against SLORC, by the U.S. and by the international community. And we will continue our strong protest against SLORC's deadly rule in ethnic minority areas with their occupation army. This pariah regime must be condemned and cast aside.

We hope that you are determined to exercise your leadership in a manner that will have a strong, effective and lasting impact. We are ready and eager to come to your assistance whenever called.

Most sincerely yours,

LA RAW MARAN, PH.D.
Executive Director.

AMERICAN FEDERATION OF LABOR
AND CONGRESS AND INDUSTRIAL
ORGANIZATION,
Washington, DC, February 6, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, U.S. Department of State, Washington, DC

DEAR MR. SECRETARY: I write to you to express my strong concerns about the continuing egregious behavior of the State Law and Order Restoration Council (SLORC) regime of Burma. Directly contradicting its claims that it seeks peace and national reconciliation, SLORC sent the Burmese army to viciously attack, capture and sack Manerplaw, the headquarters of the Karen people and key base area for many groups, including the Federation of Trade Unions Burma (FTUB), seeking to restore democracy in Burma.

We believe that the blatant, unprovoked attack on Manerplaw is a major setback for the cause of democracy in Burma and merits a strong response from the U.S. Government. In the "two visions" policy laid out by Deputy Assistant Secretary Hubbard during his visit to Rangoon, the U.S. indicated that, if progress by SLORC on issues of democracy and human rights was not forthcoming, the U.S. would renew its campaign to isolate the regime. In line with this policy, now is the time for the U.S. to show, by actions, that it is serious.

Accordingly, we urge the U.S. Government to implement a full trade and investment embargo against Burma. Since most U.S. investment enters Burma through joint ventures with SLORC government agencies or entities wholly controlled by the regime, implementing sanctions would have a direct impact on the ability of the SLORC to repress its people and conduct war on groups opposed to this illegitimate government. The withdrawal of the Commercial Officer from the U.S. Embassy in Rangoon would further underscore this message. We also renew our call for the U.S. Government to exert pressure to block development and aid projects of international institutions that benefit the SLORC.

Sincerely,

LANE KIRKLAND,
President.

DEMOCRATIC BURMESE STUDENTS
ORGANIZATION (USA),
Rockville, MD, July 7, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I write this letter on behalf of the Democratic Burmese Students Organization. We are students in exile from Burma who were witnesses to the 1988 massacre of peaceful demonstrators by the Burmese regime. We, the Burmese students, are now living throughout the United States. We are writing in support of your efforts to draft legislation imposing economic and trade measures against the military regime in Burma.

In view of the lack of freedom and democracy and the persistent refusal on the part of the current SLORC regime to honor the national mandate given in 1990 elections, we commend any measures that the U.S. Congress takes to help the emergence of a legitimate government, which is democratic and responsive to the basic needs of its people.

We believe that your proposed legislation will set a progressive direction for U.S. policy that promotes democracy in Burma. It will also send a clear signal to the SLORC that the U.S. insists on commitment for the immediate release of all political prisoners including democratic leader Daw Aung San Suu Kyi and the implementation of the full democratic process. We believe that renewed action by the U.S. Congress to increase pressure on Burma will bear critical influence on the SLORC. We shall, therefore, support any of your measures to this effect.

Sincerely yours,

SHWE SIN HTUN,
Representative, DRSO (East Coast).

[From the Desk of Betty Williams]

JULY 6, 1995.

Senator MITCH MCCONNELL,
Russell Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: I wish to take this opportunity to offer my support to the initiative you are preparing to undertake on behalf of my sister laureate Aung San Suu Kyi and the people of Burma. It has been brought to my attention that you intend to introduce legislation on July 11, 1995 which will ban all U.S. foreign investment in Burma.

On June 26, 1995, while commemorating the 50th Anniversary of the United Nations, Bishop Desmond Tutu, Lech Walesa, Oscar Arias Sanchez and myself presented a letter to the United Nations which included the signatures of seven other Laureates asking for the release of Daw Suu. The letter stated, "She has endured six long years of solitary detention without trial at the hands of the military regime. There is no sign at all of her release. We resolutely oppose political oppression disguised as criminal detention." Bishop Tutu, in a statement to a forum at the UN Anniversary called for sanctions to be imposed on Burma.

This legislative initiative is long overdue and will play a critical role in bringing about a transfer of power to the democratically elected 1990 representatives, allowing them to take their rightful (and legitimate) seats in parliament.

I offer congratulations for implementing this endeavor and hope that your colleagues in the Senate will join you in this worthy effort which I hope will lead to a political dialogue and settlement of the Burma conflict and, most importantly, democracy in Burma.

Most sincerely,

BETTY WILLIAMS,
Nobel Laureate, 1976.

UNITED FRONT FOR DEMOCRACY AND
HUMAN RIGHTS IN BURMA,
North Potomac, MD, July 25, 1995.

Hon. MITCH MCCONNELL,
U.S. Senator, Washington, DC.

DEAR MR. SENATOR: The United Front for Democracy and Human Rights in Burma and its affiliated organizations in the United States, Canada, Europe and Asia want to heartily commend you for the hearing on the Trade and Investment Sanction bill held on July 24, 1995.

On behalf of these organizations, I was present at the hearing and wish to express our views regarding the various statements made there. While we thank Assistant Secretary Winston Lord and Assistant Secretary Gelbard for their perspectives and their views on the counternarcotics issue and your sanction bill, our organizations disagree with their approach. We heartily endorse the views expressed in the opening statement made by you and the statements made by Khin Ohnmar and the representatives of Human Rights Watch/ASIA and the AFL–CIO as well as the statement submitted by Prime Minister Dr. Sein Win of the NCGUB.

Our organizations, after very careful consideration of the present situation and after

hearing the various views at the hearing as well as those of individuals and other organizations closely observing the developments in Burma, feel very strongly that the only language the SLORC, one of the most repressive and regressive regimes in the world, would understand is the comprehensive trade and sanctions legislation against Burma that you propose to introduce. We also believe that this is the right time for the introduction as Daw Aung San Suu Kyi herself has acknowledged publicly as quoted by you, "We are nowhere near democracy. I have been released, that is all. The situation has not changed in any other way." Most prudent Burma observers including Ambassador Lord are of the opinion that the reason for Suu Kyi's release was not out of good intention or desire to change to democracy and national reconciliation in Burma, but due to international pressure including your proposed bill as well as the forthcoming ASEAN meeting in Brunei.

Enclosed herewith also is the statement made by the United Front on the release of Daw Aung San Suu Kyi.

Yours sincerely,

U BA THAUNG,
Chairman.•

By Mr. REID (for himself and Mr. BRYAN):

S. 1093. A bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes; to the Committee on the Judiciary.

THE RELIGIOUS FREEDOM RESTORATION ACT OF 1993 AMENDMENT ACT OF 1995

Mr. REID. Mr. President, I send a bill to the desk on behalf of Senators REID and BRYAN.

Mr. President, the bill that I just introduced is a prison reform bill that is designed to close a gaping hole in the current law that allows prison inmates to file frivolous lawsuits at will.

This legislation is necessary, and it is overdue. It addresses and remedies a specific ailment plaguing an otherwise solid piece of legislation that passed this body in the last Congress. I am referring to the Religious Freedom Restoration Act. More specifically, I am referring to the application of this law as it relates to prison inmates.

When the Senate passed RFRA, it sought to provide the legal protections supporting the right to freely exercise one's religious belief. This legislation was a well-intentioned goal which this Senator supported.

The concern I raised when we considered this legislation was the abuse that I knew would take place of these new rights by prison inmates. In fact, I offered an amendment that would have exempted inmates from coverage of this legislation. Unfortunately, my amendment was narrowly defeated.

As the saying goes, Mr. President, you reap what you sow. And because the sponsors of this legislation sought to extend this coverage to prison inmates, our courts are now being flooded with inmate lawsuits alleging discrimination under this act. And the lawsuits are filed often for the most spurious of reasons. I said then, and I say now, that providing inmates with all those rights and privileges would be a recipe for disaster, and I was right.

(Mr. CRAIG assumed the chair.)

Mr. REID. Mr. President, word of these new legal rights has spread like wildfire. They are in Idaho. We have a letter that we will talk about from one of the deputy attorney general of Idaho.

These taxpayer-supported lawsuits are spreading like wildfire. The research for these filings is being conducted in taxpayer-supported law libraries containing spades of helpful filing information at the disposal of prisoners.

Mr. President, this is like an alcoholic locked inside a liquor store. These inmates cannot get enough.

What am I talking about? Should I talk specifics? I do not know where to start talking specifics. I only brought over a few of the lawsuits.

In this hand I have some of the Nevada lawsuits; only some of them. Because, you see, prison litigation in Nevada takes up 40 percent of the court's time—40 percent of the litigation in our Federal courts in Nevada are a result of prisoner lawsuits.

Is that what this is all about? Have we become so concerned with prisoner rights that we have forgotten the rights of society? Remember, these people are in jail because they have been convicted of felonies. They are not there because we are trying to check to find out if they are good or bad. They are felons. And we are spending 40 percent of the court's time on this trash.

Let me talk about some cases around the country. In California, we have an inmate there who wants prison authorities to allow him to practice a religion called Wiccan, which is witchcraft. He is upset because the prison authorities will not supply him, among other things, tarot cards and other paraphernalia that goes with witchcraft.

We have one lawsuit filed because the satanic group in a prison wanted unbaptized baby fat for their candles.

Mr. President, I wish I were making this up. But a Federal judge, who has a lifetime appointment, who is there to decide what is good and bad in this country, is being called upon to rule on this trash. And they have to do it. They have to go through the process.

In the State of Connecticut they have allowed Catholics and Protestants to have religious services, and Moslems. We have an inmate there who was not satisfied with that. What this inmate wanted is a certain very refined, defined sect of the Moslem religion because he refuses to go to a service for all Moslems. He wants his own.

We have one who changes his name. This man is in Florida. He keeps changing his name, and he sues the prison because they do not give him his mail in his right name.

We have, out of Florida, another case. There, an inmate alleges his rights were denied when he was not allowed to see Moslem visitors at a time that he wanted them, not when everybody else visits those that are confined. He wanted a time convenient to him. So he filed a lawsuit.

One wanted to perform the rite of washing—his definition of washing; a religious ceremony.

Another inmate filed a lawsuit because his hat was confiscated.

Another inmate filed a lawsuit because he has alleged that the inmate barbers are unskilled and are forced to perform the haircuts under too much pressure from the clock. This is a lawsuit filed.

We have another who filed a lawsuit because the diet kitchen in the prison did not meet his expectations. He believed that his religion entitles him to a healthy lifestyle as defined by what diet he wants.

We have another out of Nebraska. This man has filed a lawsuit because he is a member of the Asatru religion, which is an Islamic word, which is a term for an ancient religion of the Teutonic people of northern Europe. And the prison authorities had a little trouble finding the paraphernalia this gentleman wanted.

We have another case out in Nebraska where an inmate there thinks he is a woman trapped in a man's body, and thus strip searches by male prison officials are not allowed by his religion.

Again, Mr. President, I kind of wish I was making this up. I mean, can you imagine. These are real lawsuits that our Attorneys General and others are defending on a daily basis taking tremendous amounts of time when they should be involved in other important matters.

We have case after case of this nonsense. I said it would happen and I intend to continue to fight to end this problem.

I am going to push this, Mr. President. We can wait for hearings in the Judiciary Committee. We can do all kinds of things. But before this year is out, I am going to be offering this as an amendment to a piece of legislation moving through here. We cannot allow this kind of stuff to go on.

We have a letter here—I said on the floor, this is going to happen—from the Attorney General of the United States saying, no, it will not.

Like an alcoholic locked inside a liquor store, these inmates cannot get enough.

The consequences of these new prisoner rights are many, and an overburdened judiciary is forced to allocate its

scarce resources to considering and processing these frivolous lawsuits. Our Nation's attorneys general are being forced to defend inmate lawsuits rather than prosecute criminals. And as usual, who is picking up the tab? The taxpayers are paying for the libraries that are better than I had when I practiced law. Why not? They get anything they want. All they have to do is ask for it.

The American taxpayer, to the delight of these inmates, is left holding the tab on all of these legal expenses. And the time and cost is only going to continue to escalate unless we exempt inmates from the coverage of RFRA.

At some point we are going to have to answer the question of whether crimes are being left unprosecuted because the States' defense of prisoner lawsuits is the right thing to do.

I repeat, have we become more concerned about the rights of the criminals than we have the rights of society? I asked the attorney general of Nevada, Frankie Sue Del Papa, to keep me apprised of these RFRA-related lawsuits they are defending. That was quite a task. Just to send me copies of the garbage that is being filed has taken a significant amount of time of her staff.

I have told you about some of the cases around the country. Those in Nevada are no different. They are just as ridiculous: A lawsuit filed because religious freedom rights have been denied—because they were not able to check to see if there was pig fat, hog fat in the toothpaste. They wanted scientific tests run on this to find out if there were pork products in the toothpaste.

They wanted meat inspections to find out if the meat was properly cared for before it was given to the prisoners. This is, of course, on a religious basis.

They confiscated a necklace that was bulky and large; they thought it could cause problems to the rest of the prison populace. Not according to this man's religion. According to his claim, the jewelry would become defiled if another person touched it.

We have another man who is suing a prison chaplain for refusing to conduct a marriage ceremony between him and his male friend because they belong to Universal Life Church, and this church allows people of the same sex to marry.

They cannot get incense; they cannot get jewelry for their religious ceremonies; they cannot get the right type of altar; they cannot get the right type of nutritious vegetarian diet.

Skinheads are suing for the right to receive, because of their religion, hateful, bigoted, anti-Semitic, racist literature from all over the country.

I have a letter from the deputy attorney general from the State of Idaho. She says, besides the cases enclosed—paraphrasing—even though we do not have a lot of cases, the flood is beginning. I emphasize "yet" because I know the Department of Corrections has every reason to believe it is only a matter of time.

This woman goes on in her letter to explain the trouble they have gone to in Idaho. They have sweat lodges in their prisons, trying to make the Indian religions happy. They have problems with the Aryan Nation, motorcycle gangs, trying to comply with their wishes of what they need in prison. I do not understand why we have to bend over backward to protect the rights of people who are locked up in prison.

Remember, 7 percent of the criminals commit over 75 percent of the violent crime in this country. So our job is to get rid of the 7 percent. But what are we doing? We are trying to determine if the right pork products are in toothpaste. I believe that these criminals who are convicted felons have forfeited not all their rights but some of their rights by committing these acts against society. Rather than providing them taxpayer-funded law libraries and better gyms, which most people in America do not have the opportunity to see, let alone join, and they file these lawsuits creating more work, rather than spending the money on defending these frivolous lawsuits, I would prefer hiring more personnel so they could watch them in chain gangs.

I think, with some of what we have going on in some States where they are going back and looking at chain gangs and having these people do work instead of sitting around writing these phony lawsuits, we would be better off. They do not deserve the costly luxuries they are provided in prison. I believe the more difficult and the more unpleasant the present prison setting can be the better off we would be.

Mr. President, I practiced criminal law. When I was a young lawyer, I was assigned to represent a criminal defendant. At that time they did not have the public defender system. And I went over there as a young lawyer all raring to go to defend this man who had been charged with stealing a car and taking it across State lines. And I proceeded as a young lawyer, wanting to get into that courtroom and help this man. He said, "Young man, just back off." He said, "I committed this crime on purpose. I knew what crime I committed. I wanted to be returned to a Federal prison because they are nicer than the State prisons." I have never forgotten that.

So I am going to push hard for this legislation. Our judges ought to be spending more time hearing meritorious cases and our attorneys general should be spending more time prosecuting criminals, not defending frivolous lawsuits brought by them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION TO INCARCERATED INDIVIDUALS.

The Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.) is amended—

(1) by moving section 5 to the end of the Act;

(2) by redesignating section 5 as section 8; and

(3) by inserting after section 4 the following new section:

"SEC. 5. APPLICATION TO INCARCERATED INDIVIDUALS.

"Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility (including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government).".

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 864

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 864, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1052

At the request of Mr. HATCH, the name of the Senator from Hawaii [Mr.

INOUYE] was added as a cosponsor of S. 1052, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

SENATE CONCURRENT RESOLUTION 22—RELATIVE TO EXPO '98 IN LISBON, PORTUGAL

Mr. PELL submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 22

Whereas there was international concern expressed at the Rio Conference of 1992 about conservation of the seas;

Whereas 1998 has been declared the "International Year of the Ocean" by the United Nations in an effort to alert the world to the need for improving the physical and cultural assets offered by the world's oceans;

Whereas the theme of Expo '98 is "The Oceans, a Heritage for the Future";

Whereas Expo '98 has a fundamental aim of alerting political, economic, and public opinion to the growing importance of the world's oceans;

Whereas Portugal has established a vast network of relationships through ocean exploration;

Whereas Portugal's history is rich with examples of the courage and exploits of Portuguese explorers;

Whereas Portugal and the United States have a relationship based on mutual respect, and a sharing of interests and ideals, particularly the deeply held commitment to democratic values;

Whereas today over 2,000,000 Americans can trace their ancestry to Portugal; and

Whereas the United States and Portugal agreed in the 1995 Agreement on Cooperation and Defense that in 1998 the 2 countries would consider and develop appropriate means of commemorating the upcoming quincentennial anniversary of the historic voyage of discovery by Vasco da Gama: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States should fully participate in Expo '98 in Lisbon, Portugal, and encourage the private sector to support this worthwhile undertaking.

Mr. PELL. Mr. President, today I am submitting a resolution expressing the sense of the Congress that the United States should fully participate in Expo '98 in Lisbon, Portugal, and that it should encourage the private sector to support this effort.

Prime Minister Cavaco Silva recently invited the United States and other countries to participate in Expo '98, which will be the last exposition to take place in this century. A number of countries, including Germany, Greece, the United Kingdom, Morocco, India, Pakistan, and Cape Verde, have committed to participating in Expo '98, and several others, including Argentina, the Philippines, Canada, and Poland, have demonstrated their strong interest in participating.

I understand that our own Government is seriously considering accepting the Portuguese Government's invitation. I believe it would be useful for the Senate to weigh in on this issue, and to encourage the administration to participate in this important exposition.

As a longtime friend of Portugal, I am pleased to support United States participation in Expo '98. The theme of the exposition, "The Oceans, A Heritage for the Future," is particularly fitting as we mark the 500th anniversary of Vasco Da Gama's discovery of the sea route to India. Portugal, of course, has a great history of sea exploration, and in fact, helped to create important trade links between the peoples of Europe, the Americas, Africa, and Asia. Lisbon, the capital of Portugal since the 12th century, is a vibrant cultural and economic center, and its location on the Atlantic makes it a fine choice for an expo focused on the sea.

The U.N. General Assembly has declared 1998 as the International Year of the Ocean in an effort to alert the world to the need to improve the physical and cultural assets of the world's oceans. The theme of the expo is therefore, particularly appropriate. A fundamental goal of Expo '98 will be to focus on the growing importance of the world's oceans and to foster a debate on the sustainable use of marine resources and environmental protection. The United States, of course, has a vested interest in being part of this debate.

The organizers of Expo '98 will provide all facilities relating to each national pavilion free of charge. Accordingly, participating countries will have to provide only the contents of its representation, which I expect to be sponsored by the private sector. In fact, the resolution I am submitting encourages the private sector to support Expo '98.

As a fellow Atlantic power, and an ally of Portugal, the United States should have a strong interest in participating in this exposition. I sincerely hope that President Clinton will accept Prime Minister Cavaco Silva's invitation to be part of this important event.

SENATE RESOLUTION 158—TO PROVIDE FOR SENATE GIFT REFORM

Mr. MCCAIN (for himself, Mr. LEVIN, Mr. COHEN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. KYL, Mr. MCCONNELL, Mr. GRAMS, Mr. ABRAHAM, Mr. WARNER, Mr. HARKIN, Mr. BINGAMAN, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 158

Resolved,

SECTION 1. AMENDMENTS TO SENATE RULES.

Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. (a)(1) No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in this rule.

"(2) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source during a calendar year of less than $100. No gift with a value below $10 shall count toward the $100 annual limit. No formal recordkeeping is required by this paragraph, but a Member, officer, or employee shall make a good faith effort to comply with this paragraph.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) A gift from a relative as described in section 107(2) of title I of the Ethics in Government Act of 1978 (Public Law 95-521).

"(4)(A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

"(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

"(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

"(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

"(5) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, subject to the disclosure requirements of the Select Committee on Ethics, except as provided in paragraph 3(c).

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(14) Bequests, inheritances, and other transfers at death.

"(15) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(16) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(17) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

"(18) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(19) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(20) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

"(21) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(22) Food or refreshments of a nominal value offered other than as a part of a meal.

"(23) An item of little intrinsic value such as a greeting card, baseball cap, or a T-shirt.

"(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with an event that does not meet the standards provided in paragraph 2.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in subparagraph (c)(4) unless the Select Committee on Ethics issues a written determination that such exception applies. No determination under this subparagraph is required for gifts given on the basis of the family relationship exception.

"(f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from an individual other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and

related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

"3. A gift prohibited by paragraph 1(a) includes the following:

"(a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

"(b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by paragraph 4.

"(c) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.

"(d) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.

"4. (a) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in subparagraph (b).

"(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in subparagraph (a) shall report within 30 days after such designation or recommendation to the Secretary of the Senate—

"(1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;

"(2) the date and amount of the contribution; and

"(3) the name and address of the charitable organization designated or recommended by the Member.

The Secretary of the Senate shall make public information received pursuant to this subparagraph as soon as possible after it is received.

"5. For purposes of this rule—

"(a) the term 'registered lobbyist' means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

"(b) the term 'agent of a foreign principal' means an agent of a foreign principal registered under the Foreign Agents Registration Act.

"6. All the provisions of this rule shall be interpreted and enforced solely by the Select Committee on Ethics. The Select Committee on Ethics is authorized to issue guidance on any matter contained in this rule.".

SEC. 2. ADDITIONAL DISCLOSURE IN THE SENATE OF THE VALUE OF CERTAIN ASSETS UNDER THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) CATEGORIES OF INCOME.—Rule XXXIV of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

"3. In addition to the requirements of paragraph 1, Members, officers, and employees of the Senate shall include in each report filed under paragraph 2 the following additional information:

"(a) For purposes of section 102(a)(1)(B) of the Ethics in Government Act of 1978 additional categories of income as follows:

"(1) greater than $1,000,000 but not more than $5,000,000, or

"(2) greater than $5,000,000.

"(b) For purposes of section 102(d)(1) of the Ethics in Government Act of 1978 additional categories of income as follows:

"(1) greater than $1,000,000 but not more than $5,000,000;

"(2) greater than $5,000,000 but not more than $25,000,000;

"(3) greater than $25,000,000 but not more than $50,000,000; and

"(4) greater than $50,000,000.

"(c) For purposes of this paragraph and section 102 of the Ethics in Government Act of 1978, additional categories with amounts or values greater than $1,000,000 set forth in section 102(a)(1)(B) and 102(d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under section 102 and this paragraph in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.".

(b) BLIND TRUST ASSETS.—

(1) IN GENERAL.—Rule XXXIV of the Standing Rules of the Senate is further amended by adding at the end the following new paragraph:

"4. In addition to the requirements of paragraph 1, Members, officers, and employees of the Senate shall include in each report filed under paragraph 2 an additional statement under section 102(a) of the Ethics in Government Act of 1978 listing the category of the total cash value of any interest of the reporting individual in a qualified blind trust as provided in section 102(d)(1) of the Ethics in Government Act of 1978, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to reports filed under title I of the Ethics in Government Act of 1978 for calendar year 1996 and thereafter.

SEC. 3. GIFTS IN THE JUDICIAL BRANCH.

It is the sense of the Senate that the Judicial Conference of the United States should review and reevaluate its regulations pertaining to the acceptance of gifts and the acceptance of travel and travel-related expenses and that such regulations should cover all judicial branch employees, including members and employees of the Supreme Court of the United States.

SEC. 4. ACCEPTANCE OF GIFTS BY THE COMMITTEE ON RULES AND ADMINISTRATION.

The Senate Committee on Rules and Administration, on behalf of the Senate, may accept a gift if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the United States Senate. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 5. EFFECTIVE DATE.

This resolution and the amendment made by this resolution shall take effect on and be effective for calendar years beginning on January 1, 1996.

AMENDMENTS SUBMITTED

THE CONGRESSIONAL GIFT REFORM ACT OF 1995

BYRD AMENDMENT NO. 1878

Mr. BYRD proposed an amendment to amendment No. 1872 proposed by Mr. MCCAIN to the bill (S. 1061) to provide for congressional gift reform; as follows:

At the appropriate place in the amendment, insert the following:

SEC. . GIFTS IN THE JUDICIAL BRANCH.

It is the sense of the Senate that the Judicial Conference of the United States should review and reevaluate its regulations pertaining to the acceptance of gifts and the acceptance of travel and travel-related expenses and that such regulations should cover all judicial branch employees, including members and employees of the Supreme Court of the United States.

STEVENS AMENDMENT NO. 1879

Mr. MCCAIN (for Mr. STEVENS) proposed an amendment to amendment No. 1872 proposed by Mr. MCCAIN to the bill S. 1061, supra; as follows:

At the end of the substitute amendment, add the following:

SEC. 3. ACCEPTANCE OF GIFTS BY THE COMMITTEE ON RULES AND ADMINISTRATION.

The Senate Committee on Rules and Administration on behalf of the Senate, may

accept a gift if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

WELLSTONE (AND OTHERS) AMENDMENT NO. 1880

Mr. WELLSTONE (for himself, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. MCCAIN, Mr. LEVIN, Mr. KEMPTHORNE, and Mr. CRAIG) proposed an amendment to amendment No. 1872 proposed by Mr. MCCAIN to the bill S. 1061, supra; as follows:

Strike paragraph 1(a) and insert in lieu thereof the following:

"1. (a)(1) No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in this rule.

"(2) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer or employee reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source during a calendar year of less than $100. No gift with a value below $10 shall count towards the $100 annual limit. No formal recordkeeping is required by this paragraph, but a Member, officer, or employee shall make a good faith effort to comply with this paragraph."

NOTICES OF HEARINGS

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ROTH. Mr. President, I would like to announce that the Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on August 2, 1995. The Postmaster General of the United States will present the annual report of the Postal Service.

The hearing is scheduled for 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Pat Raymond, staff director, at 224-2254.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, August 3, 1995, at 9:30 a.m., in room 628 of the Dirksen Senate Office Building. The hearing is entitled "Federal Oversight of Medicare HMO's: Assuring Beneficiary Protection."

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider S. 1054, to provide for the protection of southeast Alaska jobs and communities, and for other purposes.

The hearing will take place on Wednesday, August 9, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Mark Rey of the committee staff at (202) 224-2878.

AUTHORITY FOR COMMITEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 28, 1995, to conduct a hearing on the condition of the savings association insurance fund.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 28, 1995, to conduct a nomination hearing. (Nominees will include: Herbert F. Collins, of Massachusetts, to be a Member of the Thrift Depositor Protection Oversight Board; and Maria Luisa Mabilangan Haley, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank.)

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

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet on Friday, July 28, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on the debt limit.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on health insurance and domestic violence, during the session of the Senate on Friday, July 28, 1995, at 9:30 a.m.

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

ADDITIONAL STATEMENTS

THE NATIONAL CONFERENCE OF STATE LEGISLATURES

• Mr. SHELBY. Mr. President, I rise today to bring to the Senate's attention a resolution adopted by the National Conference of State Legislatures in opposition to the preemption of State tort law. The conference stated that "no comprehensive evidence exists demonstrating either that State product liability laws have created a problem of such dimension that a Federal solution is warranted or that Federal legislation would achieve its stated goals." Mr. President, the conference went on to state that they "strongly oppose[s] all legislation before Congress that would have the effect of preempting State laws regulating recovery for injuries caused by defective products."

I believe that the Senate would be wise to listen to the position of the Conference of State Legislatures, made up of legislators from all 50 States. The Senate should not federalize our Nation's tort system and destroy over 200 years of State law. I urge my colleagues to heed the advice of our Nation's State legislators. I ask that a resolution adopted by the National Conference of State Legislatures be printed in the RECORD.

The resolution follows:

NATIONAL CONFERENCE OF STATE LEGISLATURES RESOLUTION ADOPTED JULY 20, 1995

NCSL has reviewed proposed federal legislation that would preempt state law by severely restricting the rights of persons injured by defective products to seek recovery in state courts. Such legislation fails to meet the standards necessary for federal preemption.

In particular, no comprehensive evidence exists demonstrating either that state product liability laws have created a problem of such dimension that a federal solution is warranted or that federal legislation would achieve its stated goals. NCSL believes that the proposed legislation would create serious new problems in the field of product liability by dictating a single set of rules controlling the timeliness of claims and the admissibility of evidence. It would conflict with longstanding state laws governing tort liability, workers' compensation and insurance regulations. By doing so, such proposals would place state legislatures and state courts in an intolerable legal straightjacket.

Therefore, in conformance with our general policy in opposition to federal preemption of state law and in the conviction that it is particularly improper for the federal government to attempt to restrict citizen access to state courts, the National Conference of State Legislatures strongly opposes all legislation before Congress that would have the effect of preempting state laws regulating recovery for injuries caused by defective products.•

TRIBUTE TO THE BICENTENNIAL OF THE U.S. NAVY SUPPLY CORPS

• Mr. NUNN. Mr. President, I would like to commend the outstanding service of the U.S. Navy Supply Corps, which is celebrating its bicentennial this month. The Supply Corps is charged with the responsibility of providing logistical support to all U.S. Navy ships. The Navy Supply Corps was created by Congress in the Naval Armament Act of 1794 and officially began its service to our Nation in 1795.

The Supply Corps has seen many dramatic changes since the early days of its founding. During the late 1790's, each of our Navy ships was assigned a single warrant officer with the enormous responsibility of purchasing and

providing all of the necessary equipment and provisions to maintain the ship's daily operations. A modern aircraft carrier serving with the U.S. Navy today may have as many as 15 supply officers aboard. The board variety of duties currently performed by supply officers require them to have detailed knowledge of accounting procedures, food service, foreign currency exchanges, and management of pay records. The Navy Supply Corps School currently trains about 3,800 students per year to become specialists in business, inventory management, financial data processing, transportation, storage procedures, petroleum handling, and purchasing.

I am pleased to note that the Navy Supply Corps School has been located in Athens, GA, since January 15, 1954. Every supply officer serving with the U.S. Navy has been trained at the Supply Corps School in Athens. In addition the school is home to the foreign officer supply course [FOSCO]. Since the course began its operations in 1955, it has graduated more than 1,200 international students/officers from over 50 different countries. The foreign officer supply course serves the extremely important function of increasing the number of military contacts between the United States and other friendly governments. Such contacts enhance the level of understanding between nations and make significant contributions to the cause of peace. Recently, the Navy Supply Corps School received the prestigious "E" Award, which recognizes excellence in the field of training, from the Chief of Naval Education and Training.

The outstanding relationship between the Navy Supply Corps School and the local Athens community should serve as a model for other military installations and host communities to follow. Many of the students and staff at the Navy Supply Corps School actively participate as tutors and mentors for local at-risk students in Athens area schools. While the students benefit from the interaction with much-needed positive role models, the participating service members receive a boost in morale that comes from the realization that they are making a recognizable improvement in the lives of their fellow citizens.

Mr. President, I ask my colleagues to join me in congratulating the U.S. Navy Supply Corps for its 200 years of excellent service. We wish it continued success in the future.•

PREEMPTION OF STATE PRODUCT LIABILITY LAWS

• Mr. COHEN. Mr. President, I have opposed Federal product liability reform legislation primarily because I believe it is a mistake to replace laws that have been carefully crafted by the State courts and legislature over the past two centuries with a one-size-fits-all piece of legislation developed in Washington, DC. Through the time-tested methods of common law adjudication and legislative adjustment, the State courts and legislatures have worked together to develop tort laws that strike the appropriate balance between the needs of plaintiffs and defendants, and those of consumers and business. Over the past decade, the States have been reforming their own tort systems by experimenting with alternative dispute resolution procedures, caps on punitive damages, and changes in liability standards. In fact, the most recent edition of the American Bar Association Journal reports that State legislatures have taken up more than 70 new tort law bills in their current sessions and that new product liability laws have been enacted in Illinois, Michigan, and North Dakota this year.

This is the way the Federal system is supposed to work. When a problem arises, the States should be the forum for experimenting with new practices and devising new solutions. A Federal law, such as the one passed by the Senate, would bring this experimentation to a grinding halt and make Congress, which has virtually no experience legislating in this area, responsible for the entire Nation's product liability system. It is ironic that this extension of Federal power is coming at a time when we are trying to reduce the size and scope of the Federal Government by shifting authority to the States and localities.

Recently, the National Conference of State Legislatures adopted a resolution opposing Federal product liability legislation. The Conference noted the proposed Federal legislation would conflict with State laws governing tort liability, worker's compensation, and insurance and would place State legislatures and courts in an intolerable legal straightjacket.

I ask that the complete text of the National Conference of State Legislature's resolution be printed in the RECORD.

The resolution follows:

NATIONAL CONFERENCE OF STATE LEGISLATURES RESOLUTION ADOPTED JULY 20, 1995

NCSL has reviewed proposed federal legislation that would preempt state law by severely restricting the rights of persons injured by defective products to seek recovery in state courts. Such legislation fails to meet the standards necessary for federal preemption.

In particular, no comprehensive evidence exists demonstrating either that state product liability laws have created a problem of such dimension that a federal solution is warranted or that federal legislation would achieve its stated goals. NCSL believes that the proposed legislation would create serious new problems in the field of product liability by dictating a single set of rules controlling the timeliness of claims and the admissibility of evidence. It would conflict with longstanding state laws governing tort liability, workers' compensation and insurance regulations. By doing so, such proposals would place state legislatures and state courts in an intolerable legal straightjacket.

Therefore, in conformance with our general policy in opposition to federal preemption of state law and in the conviction that it is particularly improper for the federal government to attempt to restrict citizen access to state courts, the National Conference of State Legislatures strongly opposes all legislation before Congress that would have the effect of preempting state laws regulating recovery for injuries caused by defective products.•

THE MAJOR LEAGUE BASEBALL ANTITRUST REFORM ACT

• Mr. LEAHY. Mr. President, yesterday the Senate Judiciary Committee began consideration of the Major League Baseball Antitrust Reform Act, S. 627. I look forward to the committee completing its consideration of this measure at our next business meeting and reporting it to the Senate.

This year the major league season did not begin, of course, until a Federal judge granted an injunction and the owners and players, who had shut the game down last August and robbed fans of pennant races and a World Series, finally declared a ceasefire in their ongoing hostilities. They had to scramble to begin a shortened 144-game schedule.

As far as I can tell the owners and the players have not gotten back to the bargaining table. They are no closer to reaching a collective bargaining agreement than they were 3 months ago. A further unfair trade practices complaint remains pending against the owners.

Interest in major league baseball is undeniably down. Attendance figures show it—they are down between 20 and 30 percent. Ratings for the recent All Star Game were down 10 percent from last year. Advertising and merchandising revenues show it, as well. Both NBC and ABC recently indicated that they will not even bid on broadcast rights for baseball in the future.

In spite of the outstanding years that the Boston Red Sox, Cleveland Indians, California Angels, Cincinnati Reds, Colorado Rockies and Atlanta Braves are having and the young, talented players throughout the leagues, the unsettled business affairs that haunt major league baseball and disillusioned many of its fans. Older fans have been turned off and the younger ones have decided to spend their time and attention on other pursuits.

Meanwhile interest and attendance at minor league baseball games continues. If the Vermont Expos are any indication, fans turned off by the excesses of major league baseball have turned to minor league games. Attendance at Centennial Field for Expos' games is up more than 10 percent and merchandise sales are booming. It is friendly, fun, and entertaining. I know that I will enjoy taking in a few games during the

August recess, if there is an August recess.

As the season began, Bud Selig, baseball's acting commissioner was quoted as saying: "We knew there would be some fallout. It's very tough to assess, but there is a residue from the work stoppage, there's no question. There is a lot of anger out there."

At our February 15 hearing on legislation to end baseball's antitrust exemption, I had asked the acting commissioner how fans get their voices heard. I observed even then: "Fans are disgruntled; I mean, they are really ripped. Do they vote with their feet?" Unfortunately, the strike dragged on, fans suffered through the owners' experiment with so-called replacement teams, and the matter remains unsettled and unsettling.

Mr. Selig answered me last February by observing that when the strike ended, there would be an enormous healing process. I said then: "The longer you go, the harder the healing process is going to be." I say now that major league baseball has gone too far and has been above the law too long.

I do not think that those who are the game's current caretakers appreciate the damage that they have done. Slick advertising, discount tickets, and special giveaway nights will not make up the difference. The last year has been disastrous.

Worse, nothing has been resolved. The problems and differences persist. There is no collective bargaining agreement and, so far as the public is aware, no prospect of one any time soon. To borrow from a famous baseball great, "It ain't over, 'til it's over."

Why should people return to major league ballparks or patronize major league teams if the risk remains of having affections toyed with again and having hopes of a championship dashed—not by a better team but by labor-management problems?

I believe the time has come for the Senate to act. The Senate Antitrust Subcommittee reported the bill to the Judiciary Committee on April 5. This consensus bill, S. 627, is sponsored by Senators HATCH, THURMOND, MOYNIHAN, GRAHAM, and myself. It would cut back baseball's judicially created and aberrational antitrust exemption.

Congress may not be able to solve every problem or heal baseball's self-inflicted wounds, but we can do this: We can pass legislation that will declare that professional baseball can no longer operate above the law. The antitrust laws apply to all other professional sports and commercial activity should apply to professional baseball, as well.

Along with the other members of the Judiciary Committee, I recently received a report of the section on antitrust law of the American Bar Association that examines S. 627. The antitrust section of the ABA reasons that professional baseball's antitrust exemption is not tailored to achieve well-defined and justified public goals.

The antitrust section, therefore, "supports legislative repeal of the exemption of professional major league baseball from the federal antitrust laws." Moreover, the report notes that putting professional baseball on equal footing with other professional sports and business and having the antitrust laws apply "cannot fairly be criticized as 'taking sides'" in baseball's current labor-management battle.

I look forward to working with our Judiciary Committee chairmen to have our bill, S. 627, considered favorably by the Judiciary Committee at our earliest opportunity and then promptly by the Senate. It is time that the Senate act and end this destructive aberration in our law.•

MEDICARE'S 30TH ANNIVERSARY

• Mr. DODD. Mr. President, I rise both to salute the 30th anniversary of Medicare and to call on the Republicans to release their secret plan to overhaul the system.

Medicare has been an American success story. It has provided health and financial security to millions of American seniors for three decades now. Along with Social Security, Medicare has transformed the retirement years from a time of fear to a time of confidence. Searing anxiety that the next illness would bankrupt you and your children has been replaced by the sure knowledge that a solemn contract will assure you of the care you need.

But now, at a time when we should be celebrating Medicare and discussing how to make it stronger, we are instead discussing draconian cuts and a secret plan to turn the system on its head.

During the last week, word has leaked out in the New York Times and the Washington Post about the Medicare cuts being cobbled together in a back room somewhere over on the House side. According to both reports, the House Republicans have a plan that would give seniors a devil's choice: face $1,000 a year in additional premiums, co-payments and deductibles or be forced into a health plan that could very well deprive them of the choice of their own doctor.

TAX CUT

Why are such wrenching changes being contemplated for Medicare? To pay for a tax cut for the wealthiest Americans. The $270 billion in Medicare cuts are roughly equivalent to the Republican budget's proposed $245 billion tax cut—more than half of which would flow to people earning more than $100,000 a year.

The Republican Medicare cuts would not be reinvested back into the system to make it solvent. The majority is not cutting Medicare in order to strengthen it. Hardly one dime of the savings would be put back into the system. Nearly every bit of the savings would go right out the door as tax cuts for the wealthiest Americans.

The Republicans also claim that all they want to do is hold Medicare cost increases to the same rate as private health care inflation. But such claims simply ignore the fact that the number of people on Medicare is increasing rapidly, as is the average age. The fastest growing population segment in the United States is people over 85, and these people need a great deal of medical care.

The budget for Medicare must increase simply to keep up with these demographic trends. If it does not, benefits will decline and costs for recipients will increase.

SECRET PLAN

According to press reports, that is exactly what the Republicans are planning: increased costs and reduced benefits. Unfortunately, we do not know all the details of the plan because it is being drafted in secret. I joined with a number of my colleagues on the Budget and Finance Committees yesterday in sending a letter to our distinguished Majority Leader asking him to release details of the Republican Medicare plan before the August recess.

I am sympathetic to the occasional need for confidentiality in drafting legislation. I believe, however, that the Republicans have had ample time to come forward with a proposal. It has been nearly 9 months since the Republicans took the majority in Congress and nearly 7 months since they actually took power.

But now we are told they will not unveil their plan for Medicare until September—nearly a full year after they were elected. By that time, there will be little time for hearings, committee consideration or public discussion of these sweeping proposals. The Medicare reforms will likely be folded into the reconciliation bill, which will be considered under special rules limiting debate. We will be under the gun to pass the bill by October 1 in order to keep the Government running.

That is no way to consider the most radical overhaul of Medicare in 30 years. The Republicans must come forward with their plan now so that seniors and their families will have time to digest the proposals and understand what they would mean to them personally and financially. We must have adequate time to weigh this legislation—a few hectic days in late September is not good enough.

HIGHER COSTS

As I said, we do not know the exact nature of the Republicans' Medicare cuts because they have not been released. What we do know from reports in the press, however, is quite discouraging.

The Medicare budget would not keep up with medical inflation or the influx

of new recipients, and as a result it would cover less and cost more for recipients with each passing year.

The Republicans apparently contemplate transforming Medicare into a "voucher" system. Under this plan, seniors would face mounting financial pressures every year to move out of their fee-per-service system and into a managed care plan in which they would not be able to choose their own doctor.

I am a supporter of managed care, and I believe it is a valuable tool for controlling costs and improving quality in our health care system. I believe that seniors should be able to choose to join a managed care plan if they want to, and in fact, more than 70 percent of Medicare enrollees already have that option today. But it must be a choice freely made, not one coerced by financial pressures.

But it is exactly that kind of financial coercion that the House Republican plan would create. Seniors choosing to remain in the fee-per-service part of Medicare would face more than $1,000 a year or more in added premiums, co-payments and deductibles. Even those beneficiaries who go into managed care will have their current benefits threatened as the proposed cuts squeeze harder and harder and the real value of the voucher declines.

When we hear numbers like these, we must remember who we are talking about here. The median income for Medicare recipients is $17,000 a year. Seventy-five percent of all seniors make $25,000 a year or less.

These are the people who would be pounded by a barrage of new expenses if they choose to stay in fee-per-service: higher copayments, higher premiums, higher deductibles.

One Republican proposal would raise the amount seniors pay out-of-pocket for their care from 20 to 25 percent.

The AARP estimates that another of the proposals would increase out-of-pocket deductibles—currently at $100—to $270 a year by the year 2002.

The average beneficiary receiving home health care services would pay $1,020 more in 2002 than they do now.

Another provision of the Republican plan spells out exactly how the Republicans would attempt to stay within their extremely tight budget projections for Medicare. According to an internal memo leaked to the New York Times, "If program spending exceeds growth rates set in law, then outlay reductions will be triggered."

Under the Republican plan, what if Medicare starts to run out of money at the end of the fiscal year? Will seniors needing medical care in September be told to come back after October 1st? If spending is projected to exceed budgeted amounts, will Medicare announce part way through the year that it will no longer cover mamograms or that recipient copays for doctor visits will double?

The Republican plan would also reportedly include some means-testing to have more affluent seniors pay more for their coverage. I agree that some means-testing of Medicare benefits will probably be necessary in the long run.

We should not kid ourselves, however, about how much savings could be achieved through means-testing. Eighty-three percent of all Medicare spending is for older Americans earning less than $25,000 a year. There simply is not that much Medicare spending on wealthy seniors from which we could extract major savings.

CONCLUSION

The American people deserve to know about these changes. Seniors deserve to know. Their children, who could find themselves saddled with more and more of their parents' medical bills, deserve to know.

Everyone deserves to know about these changes for the simple reason that the American people care about Medicare, and they care deeply. A recent poll commissioned by the American Association of Retired Persons, shows that 89 percent of Americans support this program. Ninety-two percent see it as the only way older Americans could possibly have adequate health care. And 9 in 10 older Americans said they do not want to be a burden on their families.

In pushing for passage of Medicare 30 years ago, President Johnson said, "the specter of catastrophic hospital bills can [now] be lifted from the lives of our older citizens." I hope we will do nothing in this Congress to let that specter again stalk older Americans. I urge the majority to release its Medicare plan to the public immediately.●

IF YOU PICK THE FLOWERS YOU COULD EXPLODE

● Mr. LEAHY. Mr. President, I have often spoken about the horrifying effects of antipersonnel landmines. There are 100 million of these hidden killers in over 60 countries.

Here in the relative security of the United States, we can only guess what it is like to live in places like Cambodia, Bosnia, or Angola, in constant fear of losing an arm or a leg or your life, or your child's life, from a landmine. That is a daily, terrifying reality for millions and millions of people around the world.

A recent article by David Remnick in the New Yorker magazine entitled "A Letter From Chechnya—In Stalin's Wake," illustrates what I am talking about. The Russians have dropped thousands and thousands of landmines from helicopters over Chechnya. I want to read the opening paragraphs of that article:

"If you pick the flowers, you could explode," Mayerbek said.

"What?"

"If you go off the road and into the field, there are mines. Russian birthday presents. Step on one, you might explode."

Twenty miles by mountain road from Grozny, the Chechen capital, it had seemed safe enough to get out of the Zhiguli, a banged-up tuna can of a car, and take a short walk. Apparently not. I backed out of the field of lilies and high grass, one soft step at a time.

"Better," Mayerbek said. "Much better. Now maybe let's get back in the car and get going."

Mr. President, if you pick the flowers, you could explode. A horrifying thought. But not really a thought at all. It is happening every 22 minutes of every day of every year. The overwhelming majority of the victims of these indiscriminate, inhumane weapons are innocent civilians.

My legislation, the Landmine Use Moratorium Act, which I plan to offer as an amendment in the coming weeks, aims to exert U.S. leadership to begin to put an end to this scourge. It would impose a 1-year moratorium on the use of most antipersonnel landmines. It has 45 cosponsors.●

THE 30TH ANNIVERSARY OF THE MEDICARE PROGRAM

● Mrs. MURRAY. Mr. President, this Sunday, July 30 marks the 30th anniversary of the establishment of the Medicare Program. As this 30th anniversary approaches, it is important for us to reflect on the reasons this program was enacted, and its successes.

President Truman offered several proposals to Congress, and President Kennedy made health care for seniors an issue in his 1960 campaign. Over and over again, Democrats attempted to pass Medicare legislation. Over and over again, Republicans voted overwhelmingly to defeat it. In 1965, despite a record-setting barrage of advertisements by the American Medical Association and many doctors' threats to boycott elderly patients, President Johnson signed the Medicare bill into law on July 30, 1965. Even then, a majority of Republicans voted against it.

The Medicare Program is an important contract the U.S. Government has made with senior citizens. It is a lifeline for our Nation's elderly. It seems as though times have not changed—Republicans are still fighting against the Medicare Program. The same arguments are being used. And, Democrats are still fighting for seniors, and fighting to strengthen the program.

During this year's budget debate, Democrats tried to put money back into the Medicare Program by eliminating the tax breaks in the budget. We were defeated, time and time again.

I have heard rumors of a Republican plan to save Medicare. I have not seen an official copy of this plan, and this is worrisome. The Senate will be expected to act on the budget reconciliation plan by September 22, which is less than 18 legislative days away. How can we possibly ask our constituents to accept a plan that we have not even debated yet? From the little I have

heard, this secret plan relies heavily on a voucher system, which will encourage seniors to buy the least costly health plan. This means losing their family doctor in many instances. If a senior chooses to stay in their current health plan, they will pay more—as high as $1,000 more in premiums, copayments and deductibles.

Seniors simply cannot afford these additional expenses. The average senior citizen makes only $25,000 a year. How can we expect them to pay more, while we give out tax breaks to the wealthiest of Americans.

I realize the Medicare system of yesterday does not meet the needs of the Medicare population today. It needs improvement. It needs reform. But simply forcing seniors into HMO's and cutting benefits to seniors is not the answer.

Seniors will pay more for less. Our aging population is growing, and growing faster than the money put into the Medicare system in the Republican budget. I worry about the families that have elderly parents, like I do. This so-called sandwich generation takes care of their own children and their elderly parents at the same time. They will feel the pain as their parents are unable to pay for their health care. The middle class will feel the squeeze.

My question is this: What will this secret plan the Republicans are proposing do to the seniors of this country? Why will they not make the details public?

As we near the 30th anniversary of Medicare, let us fix what is broken in the system. Let us get rid of the waste, fraud, and abuse in the system. And let us be honest and sincere with the American people. They understand sacrifice. What they do not understand is secret tactics, and bearing an undue portion of that sacrifice. We need to give some hope back to middle-income, working families in this Nation. Let us strengthen the program our predecessors rightly worked so hard for.•

MEDICARE'S 30TH ANNIVERSARY

• Ms. MIKULSKI. Mr. President, today, we celebrate the 30th anniversary of the passage of Medicare by the Congress. Thirty years ago, Members of this body took a courageous step and guaranteed health insurance coverage to seniors and the disabled—regardless of a person's income, regardless of a person's illness.

The struggle was not an easy one. In fact, it took 30 years of struggle by Democrats to pass Medicare. Through the unwavering leadership from Presidents Roosevelt, Truman, Kennedy, and Johnson, Medicare was finally signed into law.

What does Medicare mean to the seniors of Maryland and this country? Let me tell you.

Earlier this week, I visited senior centers in Maryland. I talked about the 30th anniversary of Medicare. And I listened to the seniors—who told me what it means to them to have Medicare coverage and of their concerns about the proposed cuts to Medicare.

Mr. President, who is going to speak for the senior couple in Catonsville, MD, who do not know if they will be able to afford higher Medicare premiums, particularly given all the out-of-pocket expenses like for prescription drugs that Medicare doesn't even cover?

Who is going to speak for the widow I met at the Liberty Road Senior Center in Baltimore County that needs cataract surgery that can save her eyesight and doesn't know if Medicare will be there to pay for it?

And, Mr. President, who is going to speak for the sons and daughters of these seniors who after these cuts may be forced to balance the financial demands of helping their parents pay deductibles and copayments for necessary lab and screenings and the financial needs of their own children?

Mr. President, I am going to speak out—and speak out loudly and forcibly—for these seniors, their families, and their health care.

Medicare is a unique American success story. Let us not turn back the clock on this success. We should not be talking about downsizing and degrading Medicare.

On this 30th anniversary, we should be talking about innovations and improvements. I, personally, would like to see a prescription drug benefit and coverage for prostate cancer screenings, and we desperately need a long-term care policy.

Instead we are facing cuts that mean seniors will pay significantly more for the privilege of keeping their own doctor or going to the hospital of their choice. That is no choice at all. That is not the American way and that is not what Medicare is about.

Medicare is a commitment to America's seniors. Medicare says that in America, if you are over 65 or disabled, no matter what your income, we will stand by your side and you will get the health care you need. I intend to fight to keep this commitment. I intend to keep the "care" in Medicare.

This year, we are not only celebrating the 30th anniversary of Medicare, but we are also celebrating the 50th anniversary of the end of World War II. Fifty years ago, the Medicare generation organized, mobilized, and saved Western civilization. Now is the time once again, for all of us to organize, mobilize, and save health care for our seniors. Just as in the days of World War II, the GI Joe generation—the current Medicare generation—hunkered down and was committed to the cause. So must we.

I am here on the floor today to tell you that I am committed to the mission and meaning of Medicare. I am ready to fight the good fight. And I am prepared to do whatever is necessary to preserve and protect the health care benefits of seniors in Maryland and throughout this Nation.•

REMARKS OF THE HONORABLE JOHN DALTON, SECRETARY OF THE NAVY

• Mr. DODD, Mr. President, I want to take a moment to draw the attention of my colleagues to some very eloquent and pertinent words recently delivered by the Secretary of the Navy John Dalton in my home State of Connecticut.

The text I am about to insert in the CONGRESSIONAL RECORD is the speech delivered by Secretary Dalton at the christening of the first *Seawolf* submarine on June 24, 1995, in Groton, CT. I believe it speaks volumes about our country and our future.

Therefore, I now ask that the text be printed in the RECORD and I commend it to my colleagues.

The text follows:

FOR OUR CHILDREN'S FREEDOM

Thank you admiral Boorda for those very gracious and warm comments. And thank you even more for everything you said about Margaret. Let me say that I agree with every word.

One of my great privileges as Secretary of the Navy is to name ships and appoint sponsors of those ships. It is a responsibility I take very seriously. I chose a very special lady to be the sponsor of this most special ship.

Let me give you an example of what kind of sponsor Margaret will be. She knew that today would be a day filled with such activity that she wouldn't be able to meet every member of the crew, and she wanted to know every member of the *Seawolf* crew.

So last week she got up in the middle of the night and caught the 4:30AM train to Groton and spent the day and evening with the Sailors of this ship. She will be your sponsor and champion for the life of this ship over the next thirty-five years.

It is said that a ship is imbued with the spirit of its sponsor and that indeed is a blessing for *Seawolf*. Through the course of its life this ship will have many fine commanding officers, and many outstanding Sailors in its crew. But throughout the life of this ship their will be but one sponsor. *Seawolf* and the United States Navy are very fortunate to have Margaret.

This is indeed a historic day, and I want to thank everyone who is here, I am told there is some twelve to thirteen thousand strong in number. I would like to make each and everyone of you an honorary *Seawolf* sailor.

I am also very proud to have some people who are special to me here today. It is rare that I have the opportunity to have close members of my family around, but my sons John Jr. and Chris are here today. I would like for them to please stand. My brother and my sister, Margaret's brother and her parents. We have lots of family and friends from Louisiana, Texas, Arkansas and Virginia. I would like for all of you to stand and be recognized.

Obviously, Margaret and I are very proud to be here. . . . But not simply because of the honor of participating in the christening of this submarine—the finest submarine in

the world. . . . Not simply to applaud the men and women of the shipbuilding trades here at Electric Boat and the many contractors who contribute to the building of this ship. . . . Not just to honor the brave officers and sailors who will serve through the life of this vessel. But to also take an opportunity to recognize why we are building this submarine and why we need to build more.

A number of years ago, a public official—entrusted with the best interests of the citizens of his nation—reflected his personal judgment and the common wisdom with the following words:

"There is no excuse for [building] submarines . . . So far as naval armament is concerned, it will not be long until [we] recognize that the torpedo is obsolescent; the submarine out of date; and the seaplane of so limited utility that expenditure [should] not be enlarged by any useless absurdities as aircraft carriers . . ."

Historians record that quite a few people applauded that particular speech. In fact, it was published in the most prestigious journal of the day. And why shouldn't those words have been applauded and accepted? Most nations of the world were at peace. An "evil empire" had been previously defeated. There was no apparent threat. Government was moving to reduce its budget. There were more important social and economic challenges. Freedom was a given.

Ten years later, a crisis threatened that nation and the entire world. . . . A crisis of such magnitude that many apparently wise men chose to sacrifice their very principles to avoid war, a war they were unprepared to fight.

Well, war came anyway—perhaps even sooner because of their lack of readiness . . . their lack of such "absurdities" as enough capable submarines or aircraft carriers. The war broke with a fury that destroyed their budget plans, their economic strength, their position of world leadership, and the very lives of a great many of the citizens of that democratic nation—whose freedom was ultimately saved through the intervention of its Allies.

When that war ended, fifty years ago this year . . . the men and women of that nation—and many nations—would somberly ask themselves: "why were we so unprepared?"

I am talking, of course, about World War Two . . . the war our parents or grandparents had to fight. The public official who made those unfortunate remarks belonged to one of our Allies. But there were many in the United States who had echoed the same sentiments for the same reasons. The irony is that the submarine and the aircraft carrier—absurd and expensive in the perspective of their critics—were the two weapons that proved most effective in winning the naval war.

Today, we face a situation not too much unlike the past. A few years ago we won a war—a Cold War to be sure—but one that nevertheless required a great deal of military expenditure. We are now in the process of reducing our budget deficit and tackling many challenges—economic and social—that are very worthy of our attention. There is no longer a threat of global war. Many nations—though not all—are at peace. Freedom seems secure. And like their predecessors, some people think they can predict the future.

I don't claim to predict the future. And I am not, by training, a professional historian. But I do know what history teaches. I do know that freedom is not free—it is purchased by heroism and sacrifice in war, and by good judgment and preparedness in peace. In a high-tech world . . . the world of today . . . it is purchased by remaining first-rate in technology and innovation.

Having served as a naval officer and a submariner, I know what it is like to go down to the sea—to face potential enemies—in the most capable ship, and what it is like to go down in a ship that would be considered second rate.

As Secretary of the Navy, I am committed to ensuring that the tools we give our Sailors and Marines—that their lives depend on—remain first rate.

As a businessman, I know false economy when I see it.

And as a citizen, with two fine sons—and maybe to be blessed someday with grandchildren—I am not willing to gamble their future, their freedom on the chance that there will be no war, or that, if it comes, we will be suddenly able to build tomorrow what some proposed to throw away today.

How do you preserve freedom? Do you preserve it by letting an entire industry go out of business in the name of false economy? Do you preserve it by allowing partisan politics to blind your judgement? Do you do it by giving a pink slip to men and women who have labored for many years to produce the finest tools for our defense? Do you do it by creating monopolies in the name of competition? Do you do it by declaring new technology unnecessary . . . and the status quo "good enough."

You know that's not how you preserve freedom. We all know that. So why are some ready to sacrifice an entire defense industry and are willing to throw away hundreds of millions of dollars to stop building capable submarines? How much would we pay to start building them again when the next crisis comes?

This *Seawolf* is the finest submarine in the world. It will regain the American lead in quietness and stealth. The second *Seawolf* will be better still. And the third *Seawolf* which we need will be the bridge that preserves this industry to build a more affordable, littoral warfare-oriented New Attack Submarine.

You can't get across a chasm without a bridge. There is a chasm in our defense industrial strength. If Congress does not authorize and fund the third *Seawolf*, the depth of this chasm will not simply be measured in lost jobs . . . or dollars wasted in higher overhead and contracting fees . . . but in the potential breakup of a defense industry that has always served our best interest in preserving the peace. I shudder at the thought that someday historians will say: the United States was once the best builder of submarines.

I do not predict that a global crisis is coming. I do not claim that we are in danger today. I hate war. Every night before I sleep, I pray that war never again occurs. I pray that throughout their lifetimes, my sons will be blessed with the gift of peace. But I know that—to paraphrase President John F. Kennedy—God's work on earth must truly be our own. We are the ones who are responsible for peace. We are the ones who are responsible for freedom. The steps that we take today will be the ones that may determine the freedom of our children.

The builders of this submarine . . . this mighty *Seawolf* . . . are a national treasure in knowledge and skills. The nuclear submarine-building industry represents an investment we have spent over forty years to develop. We are gambling with a national treasure if we do not take steps to preserve it. That's why I want to take this opportunity to ask each one of you in the audience—and all Americans—to urge Congress to fund the third and final *Seawolf* as a bridge to the submarine capabilities we will need in the future.

Just before I left Washington to come to this ceremony, I received a letter that I would like to read to you. The letter is dated 22 June.

"Greetings to all those gathered for the christening of *Seawolf*.

Seawolf will strengthen and sustain the invaluable contributions the Navy makes to America's leadership in global affairs. Ready for any contingency, her combat power, mobility, and flexibility will help to promote the cause of liberty and protect our national security. This fine submarine will stand as a reminder of our steadfast commitment to maintaining a democratic world for the generations to come.

As we celebrate the christening of *Seawolf*, I want to reemphasize my continuing support for the completion of the third and final *Seawolf*-class submarine SSN-23. The Armed Forces of the United States and our civilian defense industries share an effective partnership; proceeding with the construction of SSN-23 is the most cost-effective method of retaining the vitality of these industries while bridging the gap to the future New Attack Submarine.

On behalf of all Americans, I want to thank those who design and build the *Seawolf* submarines, as well as those who will serve in them. Best wishes for a wonderful ceremony."

The letter is signed by President Bill Clinton.

This is a wonderful occasion—this christening of a *Seawolf*-class submarine. This is a great day for Margaret and me, for the United States Navy, for all America. But—as President Clinton says—we need to do it twice more—not once more—if we are to guarantee that—as concerns the deterrence of global war . . . as concerns war undersea or elsewhere—there will always be great days of peace, and freedom from fear, for our children.

No one can predict the future. But we can prepare. To stay prepared, America requires a healthy nuclear submarine-building industry. Our Commander-in-Chief knows that. And Secretary of Defense Bill Perry, the Chairman of the Joint Chiefs, the CNO, these distinguished members of Congress and I are convinced of that. We are convinced that we need to build a third *Seawolf* to preserve this industry's health. And to preserve this vital resource . . . to let everyone know the real risks we take by gambling it away for false economy. To reply to those who say a third *Seawolf* is not necessary, to those who oppose our submarine program—my response is the words of our founding father, John Paul Jones, "We have not yet begun to fight."

Thank you very much. God bless you.•

FOOD STAMP FRAUD REDUCTION

• Mr. LEAHY. Mr. President, I am convinced that the single most important thing we can do to reduce fraud in the Food Stamp Program is to eliminate the use of paper coupons—and shift to electronic benefits transfer systems, also known as "EBT."

I made that same point to this body on November 8, 1993. That was when I first introduced legislation to eliminate food stamp coupons in favor of EBT.

I will introduce an updated version of that bill—which I hope can pass with the support of every Member of the Senate.

I know that Senator SANTORUM recently spoke of the benefits of EBT, as demonstrated in a pilot project in Berks County, PA.

The Majority Leader, Senator DOLE, and I supported pilot testing EBT systems for food stamps in 1982.

My bill eliminates the coupon system in 3 to 5 years. The present system is a clumsy dinosaur in need of overhauling by modern technology.

By the year 2000, those paper coupons —which now cost the Government $50 million to $60 million a year to print and process—will be history.

We will reduce fraud and save the Government money.

My bill empowers retail stores, financial institutions, and the States to figure out the best way to move to an EBT system.

My bill specifically gives businesses and States the lead roles in this conversion.

Because the Federal Government saves so much money through EBT, I want USDA to pay 100 percent of the costs of the point-of-sale equipment that goes into the stores, unless the store wants to obtain its own equipment. The bill encourages stores, but does not require them, to buy their own point-of-sale equipment.

Under current law and most welfare reform proposals, States have to pick up half those costs.

I also believe USDA should provide the cards to States at no cost to the State. Under current law, USDA picks up the tab for coupon costs and should do the same for cards.

The point-of-sale terminals should also be available for use by the State for State assistance programs.

Many grocery stores already use electronic systems to read credit cards and debit cards. I do not want us to reinvent the wheel—my bill piggy-backs the Food Stamp Program onto existing technology.

I intend to incorporate this bill either into the food stamp title of the farm bill or into the budget reconciliation bill.

Food stamps are America's largest child nutrition program. Over 80 percent of food stamp benefits go to families with children. Most of the rest of the benefits go to the disabled or the elderly.

I want you to join with me in assuring that nutrition benefits go to needy families—not to criminals who are stealing taxpayer money.

Just about everybody agrees that EBT will reduce fraud dramatically.

The inspector general of USDA has testified that EBT "can be a powerful weapon to improve detection of trafficking and provide evidence leading to the prosecution of traffickers."

The U.S. Secret Service says that "[t]he EBT system is a great advancement generally because it puts an audit trail relative to the user and the retail merchant."

Under President Bush, USDA noted that "the potential savings are enormous" if EBT is used in the Food Stamp Program.

A more recent Office of Technology Assessment report determined that a national EBT system might reduce levels of food stamp fraud losses and benefit diversion by as much as 80 percent. Think about that—EBT could reduce food stamp fraud losses and benefit diversions by as much as 80 percent.

Alan Greenspan has described the potential advantages offered by EBT for the Food Stamp Program, including reducing costs in food stamp processing by the Federal Reserve System.

Perhaps nothing is totally fraud-proof, but EBT is clearly much better than the current system of paper coupons. When a small store stocked with cigarettes and a few stale candy bars starts ringing up food stamp sales in the thousands of dollars, it is pretty obvious that the Government is being taken for a ride.

With the electronic card, EBT transactions can be constantly monitored by law enforcement agencies. Paper coupon transactions cannot.

If we had to reinvent the Food Stamp Program today, would anyone insist on paper coupons, instead of EBT?

Under the current program, USDA prints more than 375 million food stamp booklets per year, which amounts to 2.5 billion paper food coupons for food stamp households to use at retail stores.

These coupons are used once, except for $1 coupons which may be used to make change—and the change is often spent on non-food items.

The 2.5 billion coupons issued per year are mailed, shipped, issued to participants, counted, canceled, redeemed through the banking system by Treasury, shipped again, stored, and then destroyed.

Some States mail them out each month and pay the postage, for which they receive a partial Federal reimbursement. Coupons are lost or stolen in the mails.

Some States issue coupons at State offices, which is labor-intensive. The total Federal and State cost is up to $60 million per year.

EBT has another benefit—it eliminates cash change. Food stamp recipients can get cash change in food stamp transactions if the cash does not exceed $1 per purchase. This system allows food stamp benefits to be diverted to the purchase of non-food items.

While we may disagree over food stamp benefit levels and eligibility rules, I hope we can all agree that transferring food stamp benefits electronically is much better than using paper coupons.

The bill amends the Food Stamp Act to require that the Secretary of Agriculture no longer provide food stamp coupons to States within 3 years of enactment.

Any Governor may grant his or her State an additional 2-year extension and the Secretary can add another 6-month extension, for a maximum of 5½ years.

At the end of that time, States no longer would receive coupons. Food benefits instead would be provided through electronic transfer, or in the form of cash if authorized by the Food Stamp Act.

For example, under a bill reported out of the Senate Agriculture Committee by Senator LUGAR on June 14, 1995, States can cash out food stamp benefits as part of a wage supplementation program.

As in the food stamp bill reported out of the Agriculture Committee by Senator LUGAR, States will not be liable for losses associated with lost or stolen EBT cards.

The bill makes households liable for most EBT losses; however, they are not liable for losses after they report the loss or theft of the EBT card.

As under current law, States are liable for their own fraud and negligence losses.

My bill provides that regulation E will not apply to food stamp EBT transactions.

In general, regulation E provides that credit or debit card users are liable for only the first $50 in unauthorized uses of lost or stolen credit cards as long as such a loss is reported in a timely manner.

The card issuer is liable for the rest of the loss.

Under current law the State is considered the card issuer for food stamp EBT purposes. Regulation E has been a major impediment to implementation of EBT by States.

While the risks are much lower for the Food Stamp Program than for credit cards since EBT food cards only contain the balance of the unused food benefits rather than a credit line, States are still worried about liability and oppose the application of regulation E.

The bill also provides that each recipient will be given a personal code number [PIN] to help prevent unauthorized use of the card.

Under the bill, in an effort to reduce the costs of implementing a nationwide EBT system, States will look at the best way to maximize the use of existing point-of-sale terminals. States will be able to follow existing technology, rather than reinvent the wheel.

Stores which choose not to invest in their own systems will be reimbursed for card readers for Federal and State benefits only. Current law, which requires States to pay half that cost, will be amended to have USDA pay all those costs.

If the store decides at a later date that it needs a commercial reader, the store will have to bear all the costs.

In very rural areas, or in other situations such as house-to-house trade routes or farmers' markets, manual EBT systems will be used.

This restriction—in which the Government pays only for Government benefits readers and the upgrade at store expense—will encourage the largest possible number of stores to invest in their own point-of-sale equipment.

That is clearly the best option.

To the extent needed to cover costs of conversion to EBT, the Secretary may charge a transaction fee of up to 2 cents per EBT transaction, taken out of benefits. Households receiving the maximum benefit level may be charged a lower per transaction fee than other households.

In implementing the bill, the Department of Agriculture will have to consult with retail stores, the financial industry, the Federal EBT task force, the inspector general of USDA, the U.S. Secret Service, the National Governors' Association, the Food Marketing Institute, and others.

I believe this legislation will be an important tool as we try to improve the Food Stamp Program.●

ORDER OF BUSINESS

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, initially, I will ask several unanimous consent requests, all of which, I understand, have been cleared with the minority.

APPOINTMENT OF CONFEREES—H.R. 1817

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Chair be authorized to appoint conferees on the part of the Senate with respect to H.R. 1817, the military construction appropriations bill.

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

Thereupon, the Presiding Officer (Mr. CRAIG) appointed Mr. BURNS, Mr. STEVENS, Mr. SHELBY, Mr. GREGG, Mr. REID, Mr. INOUYE, and Mr. BYRD conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Executive Calendar nominations Nos. 259 through 267, and all nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc; that the motions to reconsider be laid upon the table en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

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

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. George K. Muellner, 340-36-4452, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Kenneth A. Minihan, 266-68-0860, U.S. Air Force.

ARMY

The following U.S. Army National Guard officers for promotion to the grades indicated in the Reserve of the Army, under the provisions of sections 3385, 3392, and 12203(a), title 10, United States Code:

To be major general

Brig. Gen. James J. Hughes, Jr., 300-28-2942.
Brig. Gen. William D. Jones, 413-40-0506.
Brig. Gen. Melvin C. Thrash, 432-52-8976.

To be brigadier general

Col. John W. Hubbard, 445-38-6293.
Col. John D. Havens, 496-44-8278.
Col. Ronald D. Tincher, 515-32-4559.
Col. Peter B. Injasoulian, 362-46-3049.
Col. Alfred E. Tobin, 487-42-6272.
Col. James W. O'Toole, 108-34-3872.
Col. Francis D. Vavala, 222-32-5382.
Col. Michael H. Harris, 456-56-3147.
Col. Albert A. Mangone, 015-32-6466.
Col. David P. Rataczak, 471-48-5455.
Col. Thomas D. Kinley, 133-36-4548.
Col. Joseph J. Taluto, 119-40-0598.
Col. Norman A. Hoffman, 543-48-0030.
Col. Ewald E. Beth, 399-40-5130.
Col. Gene Sisneros, 585-22-8753.
Col. Gus L. Hargett, Jr., 409-72-3983.
Col. Harold J. Stearns, 516-38-8952.

The following U.S. Army National Guard officers for promotion to the grades indicated in the Reserve of the Army, under the provisions of sections 3385, 3392, and 12203(a), title 10, United States Code:

To be major general

Brig. Gen. Woodrow D. Boyce, 221-26-3771.
Brig. Gen. Robert J. Brandt, 562-48-6792.
Brig. Gen. Joseph H. Langley, 213-38-3303.
Brig. Gen. John B. Ramey, 502-42-2367.

To be brigadier general

Col. John D. Larson, 393-40-2022.
Col. Rosetta Y. Burke, 202-28-1663.
Col. Burney H. Enzor, 420-46-8349.
Col. Frank P. Baran, 032-32-8917.
Col. Robert M. Benson, 504-50-8207.
Col. Edward L. Correa, Jr., 575-42-2290.
Col. William R. Labrie, 015-30-9938.
Col. Namen X. Barnes, 232-62-3053.
Col. Randal M. Robinson, 250-64-2867.
Col. Paul D. Monroe, Jr., 559-44-0156.
Col. Lloyd D. McDaniel, Jr., 226-50-3068.
Col. Stanley R. Thompson, 318-36-8214.
Col. Holsey A. Moorman, 223-38-7527
Col. Bradley D. Gambill, 441-38-7642.
Col. Harvey M. Haakenson, 501-44-6256.
Col. David T. Hartley, 278-36-1609.
Col. Donald F. Hawkins, 412-66-3257.
Col. Earl L. Doyle, 401-56-2996.
Col. David M. Wilson, 354-36-0577.
Col. James T. Carper, 246-66-7765.
Col. William T. Thielemann, 261-70-4517.
Col. Frederic J. Raymond, 110-30-7461.

The following U.S. Army Reserve officers for promotion to the grades indicated in the Reserve of the Army of the United States, under the provisions of sections 3371, 3384, and 12203(a), title 10, United States Code:

To be major general

Brig. Gen. William J. Collins, Jr., 119-32-9836.
Brig. Gen. Joe M. Ernst, 457-70-7194.
Brig. Gen. Steve L. Repichowski, 375-40-1966.
Brig. Gen. Joseph A. Scheinkoenig, 390-38-2426.
Brig. Gen. James W. Warr, 417-56-5099.

To be brigadier general

Col. Stephen D. Livingston, 306-44-8582.
Col. Joseph L. Thompson III, 492-44-2211.
Col. Roger L. Brautigan, 517-58-1521.
Col. John G. Townsend, 358-40-7318.
Col. Michael L. Bozeman, 248-76-9956.
Col. William B. Raines, Jr., 411-72-2267.
Col. Jamie S. Barkin, 058-36-3376.
Col. John L. Anderson, 404-60-8555.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Jared L. Bates, 060-34-9134, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John A. Dubia, 215-42-1617, U.S. Army.

NAVY

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provision of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Kenneth Leroy Fisher, 468-44-0834, U.S. Naval Reserve.
Rear Adm. (lh) John Henry McKinley, Jr., 404-54-4828, U.S. Naval Reserve.
Rear Adm. (lh) John Francis Paddock, Jr., 072-36-1141, U.S. Naval Reserve.

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Roger George Gilbertson, 217-34-8679, U.S. Naval Reserve.

DENTAL CORPS OFFICER

To be rear admiral

Rear Adm. (lh) James Conley Yeargin, 249-48-8631, U.S. Naval Reserve.

SUPPLY CORPS OFFICER

To be rear admiral

Rear Adm. (lh) Robert Cameron Crates, 409-60-7225, U.S. Naval Reserve.

MARINE CORPS

The following-named officer to be placed on the retired list of the United States Marine Corps in the grade indicated under section 1370, of title 10, United States Code:

To be lieutenant general

Lt. Gen. Robert B. Johnston, 571-50-2029.

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, NAVY

Air Force nominations beginning Ann M. Brosier, and ending Brian R. Warner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1995.

Air Force nominations beginning Maj. Gayle W. Botley, 437-11-6899, and ending Maj. Jon E. Rogers, 152-40-0433, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 13, 1995.

Air Force nominations beginning Steven J. Austin, and ending Dawn C. Stubbs, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Air Force nominations beginning Angelo J. Freda, and ending Samuel L. Grier, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Air Force nominations beginning Vincent F. Carr, and ending Charles A. Tujo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Air Force nominations beginning Richard C. Beaulieu, and ending Francine Weaker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Air Force nominations beginning James W. Amason, and ending Ronald D. Powell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1995.

Army nominations beginning Denise J. Anderson, and ending Sta Youngmccaughan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Army nominations beginning Frank M. Hudgins, and ending David G. White, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1995.

Army nominations beginning Robert D. Allen, and ending Kenneth F. Selover, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1995.

Army nominations beginning *David C. Anderson, and ending *Greta C. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 12, 1995.

Navy nominations beginning Mark A. Armstrong, and ending Dorothy B. Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1995.

Navy nominations beginning Lawrence D. Hill, Jr., and ending Joseph M. Marlowe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 13, 1995.

Navy nominations beginning Kenneth V. Kollermeier, and ending Terry L. Butler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 21, 1995.

Navy nominations beginning Jose A. Acosta, and ending Thomas N. Tichy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 12, 1995.

LEGISLATIVE SESSION

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

ORDERS FOR MONDAY, JULY 31, 1995

Mr. ABRAHAM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12:30 p.m. on Monday, July 31, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; and that there then be a period for the transaction of morning business until 1:30 p.m., with Senators permitted to speak for up to 5 minutes, with the following exceptions: Senator SIMON, 30 minutes and Senator DORGAN, 15 minutes.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 1905

Mr. ABRAHAM. Mr. President, I ask unanimous consent that at 1:30 p.m., the Senate begin consideration of the energy and water appropriations bill.

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

PROGRAM

Mr. ABRAHAM. Mr. President, for the information of all Senators, the Senate will begin consideration of the energy and water appropriations bill at 1:30 p.m. until 2 p.m. for opening statements.

At 2 p.m., the Senate will resume S. 908, the State Department reorganization bill. A cloture motion was filed today. Therefore, Senators must file first-degree amendments to the State Department bill by 1 p.m. on Monday in order to qualify postcloture.

Also, the majority leader has announced that no votes will occur on Monday prior to 6 p.m. However, amendments are expected to be offered to the State Department reorganization bill. Therefore, votes can be expected to occur into the evening.

Also, the leader has announced the strong possibility that the Senate could be asked to be in session on Saturday, August 5, in order to complete the necessary business prior to the August recess.

Also, the cloture vote on the State Department reorganization bill will occur on Tuesday, August 1, at a time to be determined by the two leaders.

ORDER FOR RECESS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order, following my remarks and the remarks of Senator DASCHLE.

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

TRIBUTE TO GEORGE ROMNEY

Mr. ABRAHAM. Mr. President, it is with great sadness that I rise to note the passing of my good friend and mentor, former Michigan Gov. George Romney. George Romney will be remembered as one of Michigan's greatest citizens, a leader in government, a leader in business, and a leading advocate of his favorite cause, which was voluntarism.

He was born in 1907 in a Mormon colony in Chihuahua, Mexico, but grew up moving with his family throughout the American Southwest. He worked hard to help his family, working in the sugar fields, and then went off to England as a missionary of his faith.

Returning to America, he attended George Washington University, worked in this city for a time dealing primarily with tariff and manufacturing issues, and then went back to Michigan as a local manager of the Automobile Manufacturers Association.

In Michigan, George Romney joined Nash-Kelvinator Corp., the forerunner of American Motors, in 1946. In 1954, he became AMC's president. From this position, he changed the way America drives, selling us on the ease and efficiency of compact cars.

But George Romney was not content with his success in business. He was a public spirited man and wanted to do more to improve life in our State of Michigan. That is why he founded a nonpartisan group, Citizens for Michigan, which successfully pushed for a State constitutional convention. That convention rewrote Michigan's code of laws and watched George Romney's first successful bid for Governor. Twice more, he ran for Governor and twice more the people of Michigan showed their support for a man who put their interests first.

But George's public service did not stop there. He went to Washington to serve in the President's Cabinet for over 4 years. Then leaving politics, he turned his attention to the great cause of his life, voluntarism.

All of Michigan has benefited from George Romney's work, bringing communities and civic organizations together to encourage people to volunteer their time. George knew that it is public spirit that holds a community together, and he promoted that public spirit and the hard work that must support it wherever he went.

Michigan's first lady, Michelle Engler, joined him in this important work, as did other prominent people in Michigan.

Interestingly, just last week, I met with George Romney in my office in the U.S. Senate. He was still working on that cause of voluntarism, and together we began working on legislation to promote voluntarism at our local communities and throughout the Nation.

To the last, he was vital, energetic, and committed to improving people's lives.

I convey my condolences today to the Romney family and everyone who cherished him as a friend. I am consoled, as I hope they are, by the many fond memories with which this good friend of Michigan and our Nation left us.

As I said, Mr. President, just last week, I met with George Romney to discuss a legislative issue of great importance to him and one which I intend to continue in his memory, because I believe that the commitment he made to voluntarism is one that all of us in the U.S. Senate should do their part to advance.

For all that we may do as paid public servants, it pales, in my judgment, in comparison to the things that voluntarists do to make life in our country better. The memory of George Romney for me will be of a man who did things for his community and for his State as a volunteer and made our lives better.

Mr. President, I yield the floor, and 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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Mr. President, 30 years ago today the Senate passed the law creating Medicare. Two days later—on July 30, 1965—President Lyndon Johnson signed that bill into law.

In doing so he made a quantum leap toward fulfilling the goal—first championed by President Truman—to end the scandal of poverty and poor health among older Americans.

He also changed dramatically what it means to grow old in America, and to watch our parents grow old.

Medicare helps seniors replace dependence with dignity, uncertainty with stability, and destitution with financial security.

Over the last three decades—despite the turmoil of wars and recessions and even a crisis in our health care system—Medicare has survived to become one of the most popular—and successful—programs in our Nation's history.

Ask America's families. They will tell you. Medicare is not some Great Society extravagance. It is the cornerstone of financial security and independence of older Americans and their families.

Indeed, when you ask people what Medicare should look like in the 21st century, most Americans say we should make only minor changes in the program—or no changes at all.

The American people want us to preserve Medicare and strengthen it, not weaken it.

They want us to honor the commitment we made 30 years ago to seniors and their families, not abandon it.

THE ROUTE TO PASSAGE OF MEDICARE

Passage of the Medicare bill did not come easily or quickly.

It took 20 years. Twenty years from the time Harry Truman began the campaign for a national plan to provide affordable health care for all Americans.

Although big-money special interests and their allies in Congress were able to block President Truman's plan by claiming falsely that it would mean "socialized medicine," Democrats did not give up.

Instead, we refocused our efforts on the area of greatest need: health security for America's seniors.

In 1960, the Medicare concept gained an important supporter when then-Senator John Kennedy sponsored a Social Security approach to health care for the elderly.

Again, Republicans invoked the fear of social welfarism.

These criticisms only strengthened Kennedy's resolve. As a presidential candidate, he was even more determined to make Medicare a reality.

Three times Kennedy requested passage of Medicare, and three times it was opposed in large measure by Republicans and defeated.

In the short-run, President Kennedy's efforts failed. But they laid important groundwork for the final, successful push for Medicare's passage.

After President Kennedy's death, President Johnson took up the fight.

Though criticism of Medicare continued—some of it from Members who today serve in this chamber—President Johnson was undeterred. Congress finally passed the measure, and the bill was signed into law 30 years ago this Sunday.

REPUBLICAN BUDGET

It is a strange and sad irony that the Republican majority chose the year of Medicare's 30th anniversary to unveil a budget that threatens to severely weaken the program. Thirty years after its passage, we are fighting to preserve the one program that, more than any other, older Americans and their families count on for economic security.

It was only a year ago that Republicans and Democrats alike spoke in this Chamber of the need to ensure health security for all Americans.

Today, Republicans are rushing headlong in the opposite direction. Instead of extending coverage to all Americans, they are preparing to increase dramatically health costs for older Americans.

In their drive to gain control of this Congress, Republicans assured us that any dollars they cut from Medicare would be plowed back into the program to strengthen and improve it.

They promised to balance the budget, cut taxes, leave Social Security and defense spending untouched, and do no harm to Medicare.

Many seniors hung their hats on this promise and gave the new majority the benefit of the doubt.

Now we know the truth. We have seen draft Republican plans for Medicare. And we know that their promises to protect the program were hollow.

What a way to say "Happy Anniversary" to Medicare and the people who support this program.

FACES OF MEDICARE BENEFICIARIES

There are many in this Chamber who would like to reduce the Medicare debate to numbers on a ledger. But this debate is about more than debits and credits. It is about people, and the promises we have made to them.

Today's Medicare beneficiaries lived through the Great Depression and the Second World War. They established homes and built families. They always looked to the future instead of dwelling on the hardships of the past.

Most are now retired and live on modest Social Security benefits, pensions, and savings. And most depend on Medicare as their primary source of health coverage.

They do not live lives of leisure and luxury. Three-quarters of Medicare beneficiaries have incomes below $25,000 per year. Fewer than 5 percent have incomes over $50,000.

And each year, health care costs chew up a growing percentage of their incomes. The average senior today spends over 20 percent of his or her income on health care—even with Medicare coverage.

For many seniors, the prospect of living without Medicare is unimaginable.

What should they give up to pay their doctors bills? What would those who want to cut Medicare have older Americans do without?

Food?

Heat in the winter?

Electricity?

Should they not go to the doctor when they are sick?

Should they not take the medicine they need?

Our Republican colleagues say their Medicare cuts will not hurt anyone.

That is not true.

Cutting Medicare by $270 billion—which is what Republicans are proposing—will cost seniors nearly $900 per year in additional out-of-pocket expenses—$900 a year from seniors living on fixed incomes so that we can give more tax breaks to the rich.

Republicans will claim differently, that a more efficient program will absorb the cuts. But their numbers simply do not add up.

They call it reform. I call it what it is: an insurance hike.

Money to pay for higher premiums will not materialize out of thin air. It will come out of Social Security checks. Or, it will come out of the savings seniors worked so hard for—savings they are counting on to last the remainder of their lives.

This is the human side of the Medicare debate.

It is a side of the discussion that makes some of us feel uncomfortable, and rightfully so. But it is a side we must recognize and address. We owe it to our Nation's seniors.

CONCLUSION

It is true that everyone must sacrifice if we are to balance our budget.

No one knows about change and sacrifice more than older Americans. They did what was necessary to make the blessings of that freedom available for us today.

All they are asking in return from us now is that we keep our promise to them.

When President Johnson signed the Medicare legislation 30 years ago in Independence MO, standing next to him was President Truman, the man who had 20 years earlier staked so much of his own Presidency on health security for all Americans.

After the bill had been signed, President Truman turned to President Johnson and said, "You have made me a very, very happy man."

When I look at what some Republicans are preparing to do to Medicare, I wonder what Harry Truman would say today?

RECESS UNTIL 12:30 P.M., MONDAY, JULY 31, 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 12:30 p.m., Monday, July 31.

Thereupon, the Senate, at 2:39 p.m., recessed until Monday, July 31, 1995, at 12:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 28, 1995:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. GEORGE K. MUELLNER [redacted]
MAJ. GEN. KENNETH A. MINIHAN [redacted]

IN THE ARMY

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF SECTIONS 3385, 3392, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JAMES J. HUGHES, JR. [redacted]
BRIG. GEN. WILLIAM D. JONES [redacted]
BRIG. GEN. MELVIN C. THRASH [redacted]

To be brigadier general

COL. JOHN W. HUBBARD [redacted]
COL. JOHN D. HAVENS [redacted]
COL. RONALD D. TINCHER [redacted]
COL. PETER B. INJASOULIAN [redacted]
COL. ALFRED E. TOBIN [redacted]
COL. JAMES W. O'TOOLE [redacted]
COL. FRANCIS D. VAVALA [redacted]
COL. MICHAEL H. HARRIS [redacted]
COL. ALBERT A. MANGONE [redacted]
COL. DAVID P. RATACZAK [redacted]
COL. THOMAS D. KINLEY [redacted]
COL. JOSEPH J. TALUTO [redacted]
COL. NORMAN A. HOFFMAN [redacted]
COL. EWALD E. BETH [redacted]
COL. GENE SISNEROS [redacted]
COL. GUS L. HARGETT, JR. [redacted]
COL. HAROLD J. STEARNS [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF SECTIONS 3385, 3392, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. WOODROW D. BOYCE [redacted]
BRIG. GEN. ROBERT J. BRANDT [redacted]
BRIG. GEN. JOSEPH H. LANGLEY [redacted]
BRIG. GEN. JOHN B. RAMEY [redacted]

To be brigadier general

COL. JOHN D. LARSON [redacted]
COL. ROSETTA Y. BURKE [redacted]
COL. BURNEY H. ENZOR [redacted]
COL. FRANK P. BARAN [redacted]
COL. ROBERT M. BENSON [redacted]
COL. EDWARD L. CORREA, JR. [redacted]
COL. WILLIAM R. LABRIE [redacted]
COL. NAMEN X. BARNES [redacted]
COL. RANDAL M. ROBINSON [redacted]
COL. PAUL D. MONROE, JR. [redacted]
COL. LLOYD D. MCDANIEL, JR. [redacted]
COL. STANLEY R. THOMPSON [redacted]
COL. HOLSEY A. MOORMAN [redacted]
COL. BRADLEY D. GAMBILL [redacted]
COL. HARVEY M. HAAKENSON [redacted]
COL. DAVID T. HARTLEY [redacted]
COL. DONALD F. HAWKINS [redacted]
COL. EARL L. DOYLE [redacted]
COL. DAVID M. WILSON [redacted]
COL. JAMES T. CARPER [redacted]
COL. WILLIAM T. THIELEMANN [redacted]
COL. FREDERIC J. RAYMOND [redacted]

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 3371, 3384, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. WILLIAM J. COLLINS, JR. [redacted]
BRIG. GEN. JOE M. ERNST [redacted]
BRIG. GEN. STEVE L. REPICHOWSKI [redacted]
BRIG. GEN. JOSEPH A. SCHEINKOENIG [redacted]
BRIG. GEN. JAMES W. WARR [redacted]

To be brigadier general

COL. STEPHEN D. LIVINGSTON [redacted]
COL. JOSEPH L. THOMPSON III [redacted]
COL. ROGER L. BRAUTIGAN [redacted]
COL. JOHN G. TOWNSEND [redacted]
COL. MICHAEL L. BOZEMAN [redacted]
COL. WILLIAM B. RAINES, JR. [redacted]
COL. JAMIE S. BARKIN [redacted]
COL. JOHN L. ANDERSON [redacted]

THE FOLLOWING-NAMED OFFICERS, FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JARED L. BATES [redacted]
MAJ. GEN. JOHN A. DUBIA [redacted]

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (1H) KENNETH LEROY FISHER [redacted]
REAR ADM. (1H) JOHN HENRY MCKINLEY, JR. [redacted]
REAR ADM. (1H) JOHN FRANCIS PADDOCK, JR. [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (1H) ROGER GEORGE GILBERTSON [redacted]

DENTAL CORPS OFFICER

To be rear admiral

REAR ADM. (1H) JAMES CONLEY YEARGIN [redacted]

SUPPLY CORPS OFFICER

To be rear admiral

REAR ADM. (1H) ROBERT CAMERON CRATES [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE MARINE CORPS IN THE GRADE INDICATED UNDER SECTION 1370, OF TITLE 10, UNITED STATES CODE.

To be lieutenant general

LT. GEN. ROBERT B. JOHNSTON [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ANN M. BROSIER, AND ENDING BRIAN R. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 1995.

AIR FORCE NOMINATIONS BEGINNING MAJ. GAYLE W. BOTLEY, [redacted] AND ENDING MAJ. JON E. ROGERS, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 13, 1995.

AIR FORCE NOMINATIONS BEGINNING STEVEN J. AUSTIN, AND ENDING DAWN C. STUBBS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

AIR FORCE NOMINATIONS BEGINNING ANGELO J. FREDA, AND ENDING SAMUEL L. GRIER, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

AIR FORCE NOMINATIONS BEGINNING VINCENT F. CARR, AND ENDING CHARLES A. TUJO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

AIR FORCE NOMINATIONS BEGINNING RICHARD C. BEAULIEU, AND ENDING FRANCINE WEAKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

AIR FORCE NOMINATIONS BEGINNING JAMES W. AMASON, AND ENDING RONALD D. POWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING DENISE J. ANDERSON, AND ENDING STA YOUNGMCCAUGHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

ARMY NOMINATIONS BEGINNING FRANK M. HUDGINS, AND ENDING DAVID G. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 1995.

ARMY NOMINATIONS BEGINNING ROBERT D. ALLEN, AND ENDING KENNETH F. SELOVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 1995.

ARMY NOMINATIONS BEGINNING DAVID C. *ANDERSON, AND ENDING GRETA C. *ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MARK A. ARMSTRONG, AND ENDING DOROTHY B. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 1995.

NAVY NOMINATIONS BEGINNING LAWRENCE D. HILL, JR., AND ENDING JOSEPH M. MARLOWE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 13, 1995.

NAVY NOMINATIONS BEGINNING KENNETH V. KOLLERMEIER, AND ENDING TERRY L. BUTLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.

NAVY NOMINATIONS BEGINNING JOSE A. ACOSTA, AND ENDING THOMAS N. TICHY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 1995.