SENATE—*Friday, September 27, 1996*

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

PRAYER

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

The Lord bless you and keep you; the Lord make his face to shine upon you, and be gracious to you; the Lord lift up His countenance upon you, and give you peace.

Father, we begin this day by claiming this magnificent fivefold assurance. We ask You to make this a blessed day filled with the assurance of Your blessing. May we live today with the Godly esteem of knowing You have chosen us and called us to receive Your love and serve You. Keep us safe from danger and the forces of evil. Give us the helmet of salvation to protect our thinking brains from any intrusion of temptation to pride, resistance to Your guidance, or negative attitudes. Smile on us as Your face, Your presence, lifts us from fear or frustration. Thank You for Your grace to overcome the grimness that sometimes pervades our countenance. Instead, may our countenance reflect Your joy. May Your peace flow into us calming our agitated spirits, conditioning our dispositions, and controlling all we say and do. Help us to say to one another, "Have a blessed day," and expect nothing less for ourselves. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, I wish to again thank all the Senators for their cooperation yesterday in moving a couple of important bills—the pipeline safety bill and the NIH reauthorization. It looks as if we are going to have some other conference reports available today. I also wish to thank the Senator from New Hampshire for his efforts on the bill that we did have a vote on yesterday.

This morning there will be a period of morning business until the hour of 12 noon. I believe Senator MCCAIN and others have time reserved. Following morning business today, the Senate will be asked to turn to the consideration of any of the following items: the Presidio-parks bill conference report, FAA conference report, the Coast Guard conference report, and possibly begin consideration of the omnibus appropriations bill making continuing appropriations for fiscal year 1977. Rollcall votes are possible during today's session, and depending on the progress that is made on the omnibus CR, there could even be votes tonight. We will begin meetings at 9:30 and get reports of the negotiations that went on into the wee hours this morning. Also, we will get a report on how negotiations are going on the illegal immigration bill.

Last night, we did file a cloture motion with regard to the illegal immigration conference report with a rollcall vote on invoking cloture occurring on Monday, September 30, at a time to be determined by the two leaders. We assume that would be mid-afternoon, perhaps around 2 o'clock on Monday. So Senators need to be aware that it will occur before 5 o'clock in all likelihood, and they would need to be here for a vote earlier than that during the day.

The reason for that, obviously, is it is the end of the fiscal year, and we will have other business we will be having to work on. If we get an agreement worked out, of course, then the chance is that the illegal immigration bill would be put into the CR, and it would not be necessary to have a cloture vote or further debate on the bill at that time. We will keep all Senators advised over the next couple hours what is happening with the negotiations, and, of course, we do hope to get up some of these conference reports today.

I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein not to exceed 5 minutes each. Specifically, the Senator from Arizona [Mr. MCCAIN], has 20 minutes; the Senator from Maine [Mr. COHEN], has 45 minutes; the Senator from New York [Mr. D'AMATO], has 10 minutes; the Senator from Georgia [Mr. NUNN], has 30 minutes; the Senator from Delaware [Mr. BIDEN], has 20 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Georgia is recognized for up to 30 minutes.

SENATOR ROBERT C. BYRD

Mr. NUNN. Mr. President, I suspect that all Senators, when we first come to this great institution we call the U.S. Senate, look around this Chamber for role models and mentors to help us become effective and productive Senators. I was privileged, after graduating law school at Emory University 1962, to come to Washington and work for Congressman Carl Vinson for nearly a year. I was privileged to follow in the footsteps of Senator Richard Russell. These were certainly two great Georgians who set an example of public service that I have sought to emulate. I was honored to have served with many Senators I have learned from, including Senator John Stennis and Senator Scoop Jackson, two legendary Senators who served in the Richard Russell tradition.

I have also learned very much from a unique Senator, the Senator from West Virginia by the name of ROBERT BYRD. Before I leave the Senate which I love, I want to take a few moments to thank my colleague and my good friend, Senator ROBERT BYRD, for the encouragement and assistance he has given me during my entire career here in the Senate and for the example he has set for all of us who served here and who have observed his leadership and his personality.

It has been said that great men are like eagles. They do not flock together. You find them one at a time, soaring alone, using their skill and their strengths to reach new heights and to seek new horizons. Such a man and such an eagle is ROBERT BYRD.

Twenty-four years after I first came to the Senate, Senator BYRD continues to be a role model for me. His tremendous understanding and deep reverence for the role of the Senate in our democracy; his total commitment to serving the people of his beloved State of West Virginia and the people of this country; his life-long commitment to learning; his sense of honor and integrity; his commitment to high moral standards; and his tremendous work ethic represent the highest ideals of public service.

ROLE OF THE SENATE

The "Almanac of American Politics" has what I think is a very appropriate

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

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description of Senator BYRD. "Robert Byrd, senior senator from West Virginia," says the Almanac, "may come closer to the kind of senator the Founding Fathers had in mind than any other." Mr. President, the ideals of the Founding Fathers and the role they envisioned for the Senate have always shaped Senator BYRD's performance of his duties.

ROBERT BYRD reveres the Senate of the United States, not just because he serves in it, but because of his respect for its role in the history of our Nation and the world. Over the years, Senator BYRD has devoted an enormous amount of time and effort to the study of the Senate's role in our history and its duties under the Constitution. His four volumes of speeches on the history of the Senate mark Senator BYRD as the most knowledgeable person on the history of this body to ever serve in the Senate, and he is the leading expert on this subject in the country today.

By the power of his intellect and the depth of his understanding of the Senate's history and rules, Senator BYRD is not just the Senate's institutional memory. He is also the custodian of the Senate ideals and values that go back to the Founding Fathers and even to ancient Rome—as he reminded us in his extraordinary series of speeches on the Senate of the Roman Republic in 1993. I have heard Senator BYRD recall the words of Majorianus, a Roman Senator, who said that when he was crowned emperor in 457 A.D. that he still gloried in the name of Senator. "That," Senator BYRD is fond of saying, "is my bottom line."

Like the authors of our Constitution, Senator BYRD views the legislative branch as closest to the people and the primary safeguard of their rights and liberties. In his speeches on the history of the U.S. Senate, Senator BYRD points out that the Senate is unique not only because its rules allow unlimited debate, and that, of course, attracts a lot of attention from time to time. Unlike some legislative bodies in the world, the Senate can originate legislation. In addition, Senator BYRD reminds us:

> The Senate not only has the power to legislate. It also has the power to investigate, to approve the ratification of treaties, to confirm nominations, and to try impeached persons. Thus, it has judicial, legislative, executive and investigative powers. This combination of powers makes the Senate unique.

Senator BYRD's knowledge of the rules and procedures of the Senate has become legendary. Senator BYRD recalled that in 1967, when he was elected Secretary of the Senate Democratic Conference, "I began to study the book of precedents and the book of rules, and soon came to know something about floor work. As a result, I became proficient in the use of the rules." Mr. President, saying that ROBERT BYRD is proficient in the use of the rules is like saying Rembrandt knew something about painting. I suspect there have been few Members of the Senate in the last 200 years who approached Senator BYRD's knowledge of the rules and precedents of the Senate.

As a result of his exhaustive study of Senate procedure, Senator BYRD has had a major impact in shaping the rules and precedents under which the Senate operates today. Some of these precedents bear his name. The Byrd rule has become a household term for anyone who follows the progress of reconciliation bills in the Congress. That rule, of course, precludes consideration of provisions in reconciliation bills that are not related to the deficit reduction goals of the reconciliation process.

In his farewell address earlier this year, the majority leader, another remarkable legislator, Senator Dole, paid an unusual tribute to Senator BYRD when he said, "I have learned from a lot of people in this room. I have even gone to Senator BYRD when I was the majority leader to ask his advice on how to defeat him on an issue. If you know ROBERT BYRD as I do, he gave me the answer." That is high praise indeed from a man with Senator Dole's great skills as a legislator in this body, who was in the opposing party—actually going to Senator BYRD and asking him, "What rule can I use to defeat you on this motion?" That is about as high a compliment as an individual can be paid in this body.

In his devotion to the U.S. Senate, Senator BYRD has always shown a personal concern for the people who serve in this institution—not just Senators but all those who are part of the Senate family. Despite his responsibilities in the Senate leadership or his duties as chairman or ranking Democratic member on the Appropriations Committee, he has never been too busy to ease the burdens, remember a birthday, or share in the joys and sorrows of a colleague or staff member with a note or a bit of poetry. I have never forgotten a dinner given in my honor by my friends in Dublin, GA, in February 1975. Senator BYRD came to Georgia for that dinner. He gave a speech and brought down the house when he played "Going Up Cripple Creek" on his fiddle, all for a junior member of his party who had only been in the Senate for 2 years. My friends from Georgia, needless to say, were very impressed.

Over the years I have received tremendous support from Senator BYRD as a member and then chairman of the Armed Services Committee. Senator BYRD has always been a strong supporter of national defense and of our men and women in uniform. I am proud of the fact that the Armed Services Committee has passed a Defense authorization bill every year since I have served in the Senate. During my chairmanship, Senator BYRD's leadership as majority leader and his parliamentary skills were absolutely essential to completing Senate action on this national security legislation.

I have also had the pleasure of participating in delegations to foreign countries headed by Senator BYRD. I remember two trips in particular. One was a trip to the People's Republic of China early in my Senate career in 1975, back when Chairman Mao and Chou En-Lai, President Chou En-Lai were still alive. We did not visit with them because they were very ill, but it was a crucial time, not only in Chinese history but in United States-Chinese relationship. The other was a trip to the Soviet Union in 1985 to meet with Soviet President Mikhail Gorbachev. Senator BYRD led the bipartisan Senate delegation on both of these trips. He was a very effective spokesman for U.S. interests, and he always managed to leave our foreign hosts with an understanding of the role of the Senate in U.S. foreign policy.

Mr. President, from the day I came to the U.S. Senate in 1973, whether the issue was foreign policy, national security policy or Senate floor procedure, Senator BYRD has been my teacher and my colleague; in many cases, my legislative partner. And, most of all, my friend.

SERVING THE PEOPLE OF WEST VIRGINIA

Senator BYRD's reverence for the U.S. Senate is matched only by his commitment to serving the people he represents in West Virginia.

Senator BYRD was first elected by his fellow citizens of West Virginia 50 years ago to represent them in the State legislature. He has retained that trust and won every public office he has sought since then. Few people are ever accorded the honor and responsibility of being elected to represent their fellow citizens—a very high compliment. ROBERT BYRD has sought that honor and that responsibility 13 times and 13 times he has succeeded, starting with his election to the first of two terms in the West Virginia House, a term in the State Senate, three terms in the House of Representatives and seven terms in the U.S. Senate.

This makes 50 years—5 decades—of public service to the people of West Virginia by this remarkable man.

Senator BYRD has served in the Senate longer than any of the 29 other United States Senators who had been elected from West Virginia. Next year, he will become the fourth longest serving Senator in the history of our Nation. He is also only the third Senator to be elected to seven 6-year terms. Think of it, seven times he has been elected to 6-year terms, along with Senator Carl Hayden and another remarkable Senator, the President pro tempore, our colleague, Senator STROM THURMOND from South Carolina. This week, Senator BYRD cast his 14,577th rollcall vote—14,577 rollcall votes—

more than any other Senator who has ever served in this body.

In his seven elections to the U.S. Senate, Senator BYRD has won with an average of 72 percent of the popular vote—72 percent. Twice he has carried every single county in his State, the only person in the history of West Virginia to do so.

For all the time he has spent in the Nation's Capital, Mr. President, ROBERT BYRD has never forgotten where he came from or why the people of West Virginia sent him here. His childhood during the Depression taught him about the plight of people who had a hard time in life, including the people who worked in the coal mines. His father moved the family from town to town looking for work, but despite these constant moves, ROBERT BYRD graduated first in his high school. He married his high school sweetheart, Erma James, after he graduated from high school and found a job—ROBERT BYRD, the son of a coal miner, marrying a coal miner's daughter. At a time when America is suffering from the breakdown of the family which causes so many more of our other problems, the 59-year marriage of ROBERT BYRD and Erma James Byrd and their dedication to their family should serve as an example to each and every one of us, not only in this body but in America.

Senator BYRD had to save for 12 years before he could afford to attend college, even part time, but he made great use of his time. Working as a gas station attendant, a produce boy in a coal company store, a shipyard welder, and meat cutter, he learned about the lives and the hardships of ordinary people, and he learned about the hopes and the dreams of the citizens of West Virginia.

ROBERT BYRD's legislative priorities have been shaped by the needs of his State—investment in highways and other infrastructure projects to stimulate economic development badly needed in West Virginia; adequate and affordable health care, particularly for the coal miners of his State; and education to improve the lives of young people, not only in West Virginia but across the Nation.

Senator BYRD's diligence and approach to every challenge he undertakes is summed up in the passage from Ecclesiastes he is fond of quoting:

> Whatsoever thy hand findeth to do, do it with thy might.

Mr. President, everything ROBERT BYRD does he does with all of his might. He brings an intensity to his work that few of us could match and none of us could sustain. Watching ROBERT BYRD serve as majority leader and as leader of the Appropriations Committee, it is clear to everyone that when the going gets tough, ROBERT BYRD doubles his efforts and just works harder.

So, Mr. President, from humble beginnings, Senator BYRD has made himself into something truly extraordinary in the history of our Nation. He was not born with wealth or connections. He certainly wasn't born with any power. He has made himself what he is today by working harder and studying harder than anyone else, and in doing so, he has become a wonderful example for the young people of this Nation of what can be achieved through the old-fashioned values of integrity, hard work, faith and perseverance.

LIFE-LONG COMMITMENT TO LEARNING

Mr. President, from the experience of his past, Senator BYRD has become a strong proponent of investing in our future, our people and our infrastructure in this country. Children are our most important resource, and he knows that there is nothing more important to the future of our children than education. But the Senator from West Virginia is living proof that education is not just for young people preparing for a career. He has given all of us an example that education is a lifetime experience. ROBERT BYRD has never stopped learning. He has never stopped trying to improve himself. He has never been satisfied that he knows everything he needs to know, and he never will be. That is the nature of this remarkable man.

Like the senior Senator from New York, Senator MOYNIHAN, the Senator from West Virginia is both a student and a teacher who constantly absorbs information, he soaks it in, and who shares his knowledge and his wisdom with his colleagues to the benefit of this entire institution and the Congress. Senator BYRD started his Senate career as a student, absorbing the lessons of history, its traditions and its rules, from men like Richard Russell and John Stennis. Over the years, the student ROBERT BYRD has become the teacher ROBERT BYRD, but also remains the student ROBERT BYRD—a remarkable combination.

He has devoted his time and energy to formal education, earning a law degree while serving as a Member of Congress. Imagine that, all the duties of a Congressman and also getting a law degree, the only time in history that anyone has both begun and completed law school while serving in the Congress.

But just as important, the Senator from West Virginia also studies for his own enjoyment because he loves to learn, he loves to study and he loves to go through self-improvement, and he does it every day. ROBERT BYRD's devotion to learning is reflected in his work. When Senator BYRD offers an amendment, manages a bill, or speaks on an issue, he knows what he is talking about, and all of us recognize that on both sides of the aisle.

As chairman of the Appropriations Committee, Senator BYRD's advice and counsel led to the system of discretionary spending caps we have been using for the last 6 years. These spending caps and the reductions in Federal discretionary spending they have enforced have made the most significant contribution to deficit reduction of any policy we have adopted in the last decade.

If we in the Congress took the same kind of step on entitlement programs that we have done under Senator BYRD's leadership on discretionary programs, the fiscal outlook for our country and the future of our children and grandchildren would dramatically improve.

Too often today, when important matters are being considered, the media and some politicians look to opinion polls first for guidance. The Senator from West Virginia is not one of those individuals. The Senator from West Virginia is much more likely to follow the advice of Winston Churchill who said: "Study history, study history. In history lies all the secrets of statecraft."

Mr. President, Senator BYRD's knowledge of history and the relevance of history to the issues we face today—it is not just knowledge of history, it is the parallel between what we should learn from history and the kind of challenges we face today—and his deep appreciation of the connection all Senators should feel to those who have gone before us are the hallmarks of his service and, indeed, I think the unique contribution he has made to this institution.

When Senator BYRD speaks on issues like the line-item veto, for instance—and I agree with him that in the future the Senate will regret turning over this power to the executive branch. It has been done. We will see how it works, but I am one of those in the ROBERT BYRD school on the line-item veto. I do not think it will be used to bring down the deficit. I think it will be used by the President for whatever power he would like to display on whatever his priorities are at the moment, depending on the President.

But when he speaks on issues like the line-item veto, ROBERT BYRD speaks with the knowledge born of long hours of study of the development of constitutional Government and of separated and shared powers in the history of England and ancient Rome as well as our own country.

Historian ROBERT BYRD knows how long it took for the legislative branch to attain the power of the purse. He knows what it means to have the power of the purse. He knows what it means for the President to have the power of the purse, because that has been done more frequently in history than having the legislative body with that power. He also is keenly aware of what it means to lose the power of the purse.

ROBERT BYRD understands and articulates better than any Member of this body the crucial role that an independent legislature plays in a democracy. You do not have a democracy

without a legislative branch. The Senator from West Virginia knows that we cannot have democracy without an independent legislative branch.

Mr. President, I could speak about the leadership and virtues of ROBERT BYRD for a long time. But let me wrap up my remarks by quoting the senior Senator from West Virginia in his history of the Senate, a magnificent quote in my view, summing up his view, and I hope increasingly all of our views, of the role of this great body.

After two hundred years, [the Senate] is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near-great, those who think they are great, and those who will never be great. It has weathered the storms of adversity, withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!

Mr. President, the U.S. Senate still stands as a great forum of constitutional liberty, in large part because of the vision of our Founding Fathers and the genius and durability of our constitutional system of Government. The men and women who serve in the Senate have a solemn obligation to understand this history and to protect the combination of powers that make the Senate unique under the Constitution.

Senator BYRD further reminds us of this solemn obligation in his addresses on the history of Roman constitutionalism when he said:

For over two hundred years, from the beginning of the republic to this very hour, [the American constitutional system] has survived in unbroken continuity. We received it from our fathers. Let us surely pass it on to our sons and daughters

Mr. President, it is my hope and prayer that our successors will study the words, study the life and emulate the deeds of ROBERT BYRD, U.S. Senator from West Virginia, as he has studied the words and emulated the deeds of our forefathers. If they do, the Senate of the United States will stand as a beacon of liberty, and the lamp of America's freedom will shine for the next 200 years. That will be the ultimate tribute to the service in the U.S. Senate of a remarkable individual—ROBERT C. BYRD of West Virginia. I thank the Chair.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me first say it is an honor to simply have heard the tribute by the Senator from Georgia directed at the Senator from West Virginia. It is an honor to simply serve with these two men. I was delighted to hear the tribute. I thank the Senator. We will all miss him very, very much in this body.

TAX CUTS

Mr. FEINGOLD. Mr. President, we are nearing the end of the 104th Congress, a time when many will review the accomplishments and the failures of the last 2 years.

Though the dramatic budget disputes have dominated much of the brief history of the 104th Congress, there have in fact been a number of bipartisan successes that have not been as publicly noted. These bipartisan efforts have included congressional compliance, unfunded mandates legislation, lobby and gift reform, modest, but helpful, health insurance reform, and the promising beginnings of campaign finance reform.

But, Mr. President, perhaps the biggest achievement of this Congress has been something that was not done. This Congress did not enact any of the massive, fiscally irresponsible tax-cut proposals that Members of both parties have proposed.

Mr. President, a recent headline in the Washington Post read, "Dole's Tax Cut Centerpiece Has Yet To Strike a Chord With Voters." It is a telling story about the inability of the Dole campaign to gain significant political benefit from his proposal to cut taxes by nearly half a trillion dollars.

To a certain extent, I think the same kind of story could be written, in fairness, about President Clinton's tax-cut proposals. The bulk of the success that the President has enjoyed—I believe will continue to enjoy—clearly comes not from his tax-cut plans, but from his handling of the economy and his record on deficit reduction.

So, Mr. President, I think neither candidate has benefited in any significant way from proposing tax cuts. The reason is straightforward. Voters understand we simply cannot afford to cut taxes if we are to balance the Federal budget within the next 6 years. Mr. President, do Americans want lower taxes? Of course they do. But given the choice between cutting taxes and balancing the budget, the American voter wants to balance the budget.

Make no mistake, Mr. President, that is the choice we have before us. We have to do one or the other. You cannot do both. Anyone who claims you can do both is either blowing smoke or simply does not understand the huge problem we have in this country with our deficit and the debt which underlies it.

Mr. President, we saw how politically unsustainable a budget package becomes when it attempts to provide a major tax cut while it also claims to be eliminating the deficit. The political developments of this past year are testimony to this fact.

Indeed, any budget package that eliminates the deficit will be difficult enough to sustain over the next few years that it would take to fully implement its provisions even without the added burden of funding a significant tax cut.

The failure of the tax-cut plans offered by either party to gain political momentum is, of course, not due to a lack of effort. Millions of dollars are being spent on carefully crafted television commercials advocating these tax-cut proposals. These plans are not new nor are the efforts to promote them.

The President's plan that we have heard about recently is similar, in many ways, to the one he proposed in December of 1994. The Dole plan clearly has its roots in the massive tax cut proposed as a part of the now famous Contract With America. In fact, many in this body will recall that the Speaker of the other body pronounced that the tax-cut proposal, of all the proposals in the Contract With America, was the "crown jewel" of the Contract With America, in his words.

Mr. President, the Speaker's characterization was notable. Of all the provisions in that political document, it was the tax cut that he, the leader of that charge, gave the privileged position. Yet, despite the considerable political inertia that is conferred by being singled out as the crown jewel of the Contract With America, the tax cut has not been enacted.

Mr. President, does anyone doubt that, if there had been strong broad-based support for that tax cut, it would have been enacted by now? Clearly it would have been. If the American people truly preferred tax cuts to deficit reduction, we would have seen an inevitable bipartisan rush to enact them. But that has not been the case.

In the Washington Post story on the failure of the Dole tax-cut plan to attract voter support, a gentleman named Ralph Miller, of Greencastle, IN, a self-described independent, is quoted as saying this:

When I hear all that talk about how they're going to cut taxes and balance the budget, it turns me against the both of them.

He added:

I don't believe anybody can do that * * * I have respect for Bob Dole, but this seems ridiculous to me.

Mr. President, despite the lost opportunity to make even more progress to reduce the deficit during the 104th Congress, the deficit-reduction package passed in 1993 continues to lower the annual budget deficits below where they otherwise would have been.

As many have noted, in the last 4 years we have seen deficits come down from nearly $300 billion to an estimated $117 billion. That progress, of course, has come only with great difficulty. Finishing the job will be even tougher, but it is something that absolutely must be done.

Mr. President, proposals to provide large tax cuts jeopardize that effort by pirating the savings generated by spending cuts away from deficit reduction in order to fund tax cuts.

They also undercut deficit reduction by providing an alluring alternative to the often painful and unpopular work of balancing the budget.

It is much easier it is to talk of cutting taxes than it is to focus on where to cut spending.

The American people have not been swayed by the talk of cutting taxes by the Presidential candidates.

In fact, if President Clinton wins, as I hope and expect he will, it will in large part be because of his success in reducing the deficit, not because of his tax cut proposals.

Mr. President, in 1994, the first time many voters became aware of the Contract With America, including its crown jewel, was after the election.

But that fact was conveniently ignored when the new congressional leadership sought to advance their agenda.

The contract's provisions were held up as an electoral mandate, though I doubt 1 voter in 10 was in any way familiar with the real specifics of the Contract With America.

There will be no comparable, after-the-fact, document this year, Mr. President.

The differences between the two candidates are well known.

And despite the efforts of some in both parties, and the political and media specialists in both campaigns, the outcome of this election will rest in large part on whether voters choose reducing the deficit or cutting taxes as the higher economic priority of this Nation.

Mr. President, despite the loudly trumpeted promises made at the beginning of this Congress, and despite the significant political pressure brought to bear by well-funded special interests, we have succeeded in avoiding significant damage to the deficit, and to the goal of a balanced budget, that a huge tax cut would have meant.

If, in the 105th Congress, as I very much hope, we are finally able to enact a bipartisan budget plan that will balance the Federal books, it will be in large part because we did not enact a fiscally irresponsible tax cut in the 104th Congress.

The PRESIDING OFFICER. The Senator from New York is recognized to speak for up to 10 minutes.

Mr. D'AMATO. Mr. President, I thank the Chair.

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 2136 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COOPERATIVE RESEARCH EFFORTS BETWEEN THE NATIONAL MARINE FISHERIES SERVICE AND USDA'S EXPERIMENT STATION AT MISSISSIPPI STATE UNIVERSITY

Mr. LOTT. Mr. President, I come to the floor today to report to Congress and the American people on a unique success story. A story about a public-private partnership. A story involving a cooperative effort of two Federal agencies. A story requiring teamwork between a State government and the Federal Government. A story about our land grant university for Mississippi, and catfish farmers in Mississippi's Delta.

First, let me say, I am proud to report to my colleagues that the Mississippi Delta produces 80 percent of the farm-raised catfish enjoyed in America. This farm-raised catfish industry represents approximately 70 percent of the commercial value of America's entire aquaculture industry. Clearly, farm-raised catfish is big business in America. And clearly, it is big business for Mississippi.

But, it was not always successful. The catfish industry in Mississippi struggled for 25 years. There were many tales of financial woe. However, with hard work and the willingness to accept large fiscal risk, Mississippians developed aquaculture into a dynamic and viable economic enterprise. The pioneers in this industry spent a lot of their own money to build a giant infrastructure which includes production, processing, transportation, marketing, distribution, and feed mill capacity. We are talking about a $2 billion agricultural investment.

Mr. President, according to data provided to my office by the State of Mississippi, the Mississippi catfish industry employs more than 25,000. And this industry sells approximately $0.5 billion each year of catfish at the pond bank.

Throughout the growth of this new fledgling agricultural enterprise over the past 25 years, the No. 1 priority for the catfish farmers has always been to find new production techniques. If you build a pond and fill it with catfish, the question is not where the fish are. No—the real question and challenge is how to harvest the fish of a certain size.

Similar to any other intensely managed livestock operation, the farm-raised catfish industry experienced enormous production challenges such as nutrition problems, disease, and harvesting technology. There were many costly false starts in a search for solutions. Success was a hit or miss event. Gradually, solutions to feeding and health problems have been developed. Today, part of the catfish industry's attention is focused on obtaining new technology. This involves the National Marine Fisheries Service. The goal is to take advantage of existing technology.

Now, to many Americans fish are fish. To some, fish are classified as either fresh water or salt water. Here is where the Federal Government often draws a hard and fast bureaucratic line. The Federal Government has two different and distant agencies in two separate departments which deal with fish depending on the water they live in.

This is OK if these agencies talk to each other and share their success stories—yes, fish stories. And not about the one that got away. In Washington they call this dialog interagency coordination which is formalized with a memorandum of agreement. Sadly, this does not always occur.

Today, I stand here to tell you about one of those instances where the two Federal agencies did indeed find each other. They found each other without prodding from outside sources—like Congress. The story gets even better. When they found each other, there was a cooperative spirit to help America's catfish industry. Here, there is a success story.

Mr. President, it is encouraging for me to report to my colleagues there was a personal commitment, at the staff level, to help Mississippi's Delta catfish farmers. The National Marine Fisheries Service [NMFS], in Pascagoula, which is part of the Department of Commerce took on the persistent fresh water pond harvesting technology problems. They worked with Scientists at the Department of Agriculture [USDA] laboratory, at Mississippi State University in Stoneville. Together they formed a joint effort to apply existing marine fisheries' technology to catfish ponds. The established saltwater fishing industry is excellent at catching fish. The new fresh water community is good at growing fish, however, they needed to learn how to be more effective at catching them. NMFS stepped in to share new gear technology with the fresh water fish community. This sharing of technology kept the fresh water community from reinventing the wheel.

The Government's traditional business as usual policy would have prevented the assistance and technology exchange. To provide this help across jurisdictional lines is a Federal no-no. More importantly the policy would have been prevented because it threatens budget authority and funding issues.

But, despite these Washington obstacles assistance was offered and received. A Mississippi success story.

The NMFS laboratory in Pascagoula committed itself because of its can do attitude. And clearly USDA and Mississippi State University were receptive. NMFS brought a range of potential solutions to the harvesting technology problems of the warmwater aquaculture industry because they had worked on this issue for years in the

marine fishing industry. I want to single out two individuals. Specifically, John Watson and Charles "Wendy" Taylor of NMFS's Pascagoula laboratory. These two directly assisted in the development and retrofitting of harvesting equipment. They had lots of ideas. They offered hands-on help. They produced rapid results.

They showed those fresh water folks lots of new ideas and real solutions. Many of these ideas caused revolutionary improvements in the harvesting efficiency and quality control for the farm-raised catfish industry. Revolutionary is not an overstatement. This is not a fish story about the one that got away. This is about the catfish that got caught. The proof was tangible and quickly evident at the processing plants. John and Wendy made a difference in Stoneville.

The NMFS laboratory staff in Pascagoula could have told the scientists in Stoneville's USDA Laboratory that procedures and policies prohibit the marine fisheries' experts of Federal Government from sharing their technology with a sister industry. But, they did not. Instead, through the combined efforts of these two diligent scientists and the cooperative spirit of personnel with USDA's Stoneville Experiment Station and Mississippi State University, steps were taken to discover potential solutions to the technology problems which have plagued the farm-raised catfish industry.

I must say this cooperative spirit extends all the way back to Washington. It is also exhibited by Rolland Schmitten, the Director for the National Marine Fisheries Service. There is a leadership example which is reflected throughout the agency.

Mr. President, it is a pleasure to share with my colleagues this story of Federal interagency cooperation. It also illustrates that public-private partnership can be productive. I think it is worth noting that this cooperative effort has reduced duplication of Federal efforts. This makes fiscal sense, especially as we strive to make the services of government more efficient.

All of us should look for similar opportunities within Federal agencies in our own home States. I am sure there are more Stoneville's out there. I am sure there are more ways that the Federal Government can deliver cost-effective solutions to the problems. I am also sure there are more public-private partnerships that can make a difference. Let us use our oversight responsibilities in the next Congress to reexamine Government priorities, policies, and procedures for other interagency opportunities with an aim of forming more partnerships with industry.

Mr. President, Stoneville should be the standard in the future, not the exception.

Again, I applaud the efforts of the National Marine Fisheries Service and I want to publicly thank them. They have significantly helped America's farm-raised catfish industry. I strongly encourage the continuation of the successful relationship between Stoneville and Pascagoula.

THE ACADEMY OF TELEVISION ARTS AND SCIENCES

Mrs. FEINSTEIN. Mr. President, I rise today to recognize the Academy of Television Arts and Sciences as it celebrates its 50th anniversary.

The television industry reflects so much of what we are as Americans. The Academy of Television Arts and Sciences—with its annual Emmy Award—recognizes the positive impact television makes on so much of our everyday life.

I'm an avid channel surfer at home, so I watch a fair amount of television. I know how positive a messenger television can be—whether explaining the spread of a deadly disease, bringing us up-to-the-minute reports of world events, or simply making us laugh during a half-hour situation comedy when our day has ended and we're ready to take a break.

The people and programs honored with the Emmy Award are a permanent part of our country's history.

Just listen to some of the who's who's list of recipients of the acting awards in the comedy field alone: Lucille Ball—four time recipient—Red Skelton, Danny Thomas, Eve Arden, Jack Benny, Shirley Booth, Carol Burnett, Dick Van Dyke, Mary Tyler Moore, Julie Andrews, and today's recent recipients Candace Bergen—five time recipient—Kelsey Grammer, and Helen Hunt. The programs honored—"Dick Van Dyke," "The Odd Couple," "All in the Family," "Get Smart," "Taxi," and "Barney Miller"—show just why the programming of "Nick at Nite" is so popular with people trying to recapture the classic days of comedy.

The drama programs honored over the years also give us a snapshot of American life at the time the programs aired: "Studio One," "Gunsmoke," "The Fugitive," "Mission Impossible," "Marcus Welby, M.D.," "Masterpiece Theatre," "The Waltons," and the modern-day "Hill Street Blues" and "E.R." Who can forget the Waltons' powerful message of family persevering through the Depression or who can forget how "Hill Street Blues" showed us the life of a police officer like we had never seen it before.

For all that is good, educational and powerful on television, I am pleased to play a small part in honoring the academy and the entire television industry for its work.

As the Senior Senator for California, I also know how vital the entertainment industry is to my home State, where more than 150,000 people are employed in more than 1,000 entertainment-related companies.

The academy, itself, was founded in 1946 by Syd Cassyd, and elected a year later Edgar Bergan as president. Under his direction, the academy first produced the Emmy Awards in 1948. The organization went national when it merged with the New York Academy in 1947 with Ed Sullivan as its first president.

The academy continued to expand adding new chapters throughout the United States.

Today, with 9,000 members, the academy is the largest organization in the television industry. In addition to the Emmys for which it is best known, the academy also runs an intern program for college students interested in film and holds student film competitions. In 1984, the academy formed its first steering committee on drug and alcohol abuse and began its work with a 2-day seminar in Washington, DC with First Lady Nancy Reagan. A decade later, the academy sponsored another meeting—this one focusing on the information superhighway—with our Vice President, AL GORE.

Mr. President, it is an honor and a privilege to acknowledge the accomplishments of the Academy of Television Arts and Sciences as a leader in the entertainment industry. I commend the academy on its growth and creativity over the past 50 years and I look forward to the next 50.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I ask that I might be able to speak for about 10 minutes in morning business.

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

OMNIBUS PARKS BILL

Mr. MURKOWSKI. Mr. President, there has been a great deal of interest from many Members in the disposition of the omnibus parks bill. As the Chair is aware, we as a committee, the Energy and Natural Resources Committee, met in conference and reported out the Presidio package several days ago, which contains 126 separate sections covering some 41 States.

We sent it over to the House. There was an implication regarding taxes on one particular section. We attempted to clear it over here. We had an objection. That objection has been addressed. It is my understanding that, procedurally, this matter can move from this body, assuming there is no further objection.

There is another track that is underway by some Members—mostly from the other body—that suggest that the disposition of the omnibus parks bill should be in the appropriation bill, the CR that is forming. I find that extraordinary because there are authorizers and there are appropriators. My committee, as an authorizing committee,

has done its job. The Committee on Natural Resources, chaired by Representative YOUNG, has done its job. We got our packages together. We had further communicated with the White House over a week ago, addressing specifically certain contentious sections and asking for a disposition.

There are, initially, four major items in dispute. One was the Utah wilderness issue. The administration saw fit to initiate the invocation of the Antiquities Act to take care of the Utah wilderness. In other words, it was a land grab; the administration simply took 1.8 million acres and didn't notify the Utah delegation—the Governor, the Members of the Senate or the House. It was really a land grab, with no public process, which this administration highlights as part of their philosophy. We had been debating Utah wilderness for an extensive period of time and hadn't resolved it. But the democratic process was going on, people were being heard, different views were being heard.

It wasn't so long ago that we had an opportunity to debate the California wilderness bill. There was no antiquities application or land grab there. They let the democratic process move forward. The reason I point this out is because that was a contentious item, Utah wilderness. We withdrew it because of the threat of a veto.

Another contentious issue involved a 15-year extension for the only manufacturing plant in my State of Alaska. Without a 15-year extension, it could not make the $200 million investment to change that plant from a conventional pulp plant to a chlorine-free plant. They needed that commitment. The Forest Service would put up the timber so they could amortize the investment. The administration chose to object to that. The problem is, of course, that there is no source of timber, other than Federal timber, because all of southeastern Alaska is part of the Tongass National Forest. The communities are in the forest. The communities were assured at the time the forest was created that there would be enough timber to maintain a modest timber industry. So out of the 17 million acres of the forest, we have digressed down to trying to maintain an industry on about 1.7 million acres.

The pathetic part of it is, Mr. President, only roughly half of the timber is suitable for pulp. It is either dead, dying, or immature, in the sense that there is not enough soil to continue to maintain growth to full maturity. It has no other use. The reason this pulp mill was created is so we would have a tax base—this is the only year-round manufacturing plant in the State—and to secure jobs, and we would not have to export the pulp out of the State of Alaska—at that time, it was the territory of Alaska—down to the mills in the State of Washington, or to British Columbia, or Oregon.

Well, by the administration's dictate of lack of support for the extension, this mill will close. So the Senator from Alaska has taken his hit. I withdrew that from the omnibus parks package. Then we had the grazing issue. The administration objected to the fee structure of grazing on public land—the traditional Western use of public land. So we withdrew that. Then we moved up to Minnesota and we had the Boundary Waters Area. This was a question of whether you could use small motorized four-wheelers to haul small boats, canoes, and so forth, over a trail between the lake system. It is all right for the young folks to get 10 people out there and push it, but some of the older folks need some motorized assistance. They objected to that. So we took that out.

Mr. President, as justification for that I ask unanimous consent that the letter from the OMB outlining the objections be printed in the RECORD, along with a list.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 25, 1996.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LOTT: I am writing to provide the Administration's initial views on the conference report on H.R. 1296, the Omnibus Parks Legislation, that was filed last night. We are still in the process of reviewing this extensive legislation and understand that a number of changes were made to the conference report from the version of the bill we reviewed late last week. But, on the basis of our review of the conference report language, the President would veto the conference report.

The conference report still includes provisions that are unacceptable to the Administration including: unwarranted boundary reductions to the Shenandoah and Richmond Battlefield National Parks in Virginia, special interest benefits adversely affecting the management of the Sequoia National Park in California, permanent changes in the process for regulating rights of way across national parks and other federal lands, unfavorable modification of the Ketchikan Pulp Company contract in the Tongass National Forest, erosion of coastal barrier island protections in Florida, and mandated changes that would significantly alter and delay the completion of the Tongass Land Management Plan.

We have repeatedly stated our strong support for legislation to improve the management of the Presidio in San Francisco, use Federal funds to help acquire the Sterling Forest in the New York/New Jersey Highlands Regions, and establish the Tallgrass Prairie National in Kansas. We have also repeatedly stated our strong willingness to work with you to develop bipartisan, compromise legislation that protects our Nation's natural resources. This conference report does not meet that test. We remain willing to work with you to develop a compromise package that could be included in a bill to provide continuing appropriations for FY 1997.

Sincerely,

FRANKLIN D. RAINES,
Director.

H.R. 1296, OMNIBUS PARKS BILL

Sec.	Title
101	Presidio (CA).
201	Yucca House (AZ) boundary.
202	Zion NP (UT) boundary.
203	Pictured Rocks (MI) boundary.
204	Independent Hall (PA) boundary.
205	Craters of the Moon (ID) boundary.
206	Hagerman Fossil Beds boundary.
207	Wupatki (AZ) boundary.
208	Walnut Canyon (AZ) boundary adj.
209	Butte County (CA) conveyance.
210	Taos Pueblo (NM) land transfer.
211	Colonial (VA) NHP transfer.
212	Cuprum (ID) relief (FS).
213	Ranch A (WY) land conveyance.
214	Douglas (WY) relinquishment of interest.
215	Modoc (CA) NF boundary expansion.
217	Cumberland Gap (VA) NHP exchange.
221	Merced (CA) irrigation district exchange.
222	Father Aull (NM) land transfer.
301	Targhee (ID) NF land exchange.
302	Anaktuvuk Pass (AK) land exchange.
305	Arkansas and Oklahoma land exchange.
306	Big Thicket (TX) land exchange.
307	Lost Creek (MT) land exchange.
308	Cleveland (CA) NF land exchange.
310	BLM reauthorization.
402	Rio Puerco (NM) wastershed.
403	Old Spanish Trail study.
404	Great Western Trail (CO and others).
407	Lamprey (NH) wild and scenic river.
408	West Virginia rivers amendments.
409	Wild & Scenic River technical amend.
410	North St. Vrain Creek (CO) protection.
501	Selma-Montgomery (AL) historic trail.
503	Kaloko-Honokohan (HI) commission ext.
504	Boston Library (MA) carry NPS material.
505	Women's Rights NHP (NY) amendments.
506	Black Rev. War Patriots memorial ext.
507	Hist. Black Colleges historic buildings.
508	Martin Luther King memorial in D.C.
509	ACHP reauthorization.
510	Great Falls (NJ) Historic District.
511	New Bedford (MA) Nat. His. District.
512	Nicodemus (KS) Nat. His. Site.
513	Unalaska (AK) affiliated area.
514	Japanese American memorial in D.C.
515	Manzanar (CA) NHS land exchange.
516	AIDS Memorial Grove (CA) memorial.
601	U.S. Civil War Center (LA) at LSU.
605	American Battlefield Protection.
606	Chikamauga (GA) NMP auth. increase.
702	Delaware Water Gap (PA) fees.
801	Remove limit on park buildings.
802	Authority for NPS to transport children.
804	NPS museum properties.
805	Volunteers in parks.
807	Carl Garner cleanup day.
808	Fort Pulaski (GA) reservation removal.
809	Laura Hudson Vis. Center (LA) renaming.
810	Lagomarsino Vis. Center (CA) renaming.
812	Dayton (OH) Aviation Heritage amend.
813	Angeles NF (CA) transfer prohibition.
814	Grand Lake Cemetery.
817	William Smullin (OR) BLM visitor center.
901	Blackstone (MA) heritage area amend.
902	Illinois & Michigan Canal (IL) NHA amend.
1001	Tallgrass Prairie (KS) Nat'l Preserve.
1011	Sterling Forest (NY/NJ).
1023	Recreation lakes commission.
1024	Bisti/De-Na-Zin (NM) wilderness expand.
1025	Opal Creek (OR) wilderness and rec. area.
1026	Upper Klamath Basin (OR) restoration.
1027	Deschutes Basin (OR) restoration.
1030	Bull Run (OR) watershed protection.
1031	Oregon Islands (OR) wilderness additions.
1032	Umpqua River (OR) land exchange study.
1033	Boston Harbor Islands (MA) NRA.
1035	Elkhorn Ridge (CA) BLM substitute timber.
Added in conference:	
313	Kenai Natives (AK) land exchange—House version only.
1042	Katmai (AK) NP subsistance fishing.
1101	California Bay Delta Environment.
(NPS advises it could support individual heritage area designations if overall program authority in HR 1296 is deleted or replaced with HR 1301.)	
	Essex (MA) NHA.
	Ohio and Erie Canal (OH) NHA.
	Augusta (GA) NHA.
	Steel Industry (PA) NHA.
	South Carolina NHA.
	Tennessee Civil War NHA.
	West Virginia Coal NHA.
	Great Northern Frontier (NY) study.
	Lower Eastern Shore (MD) study.
	Champlain Valley (VT) study.

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

Mr. President, that being done, we assumed that the administration may

have mild objection to others. But last night we had a proposal from the administration. I want those that are watching in the offices to pay particular attention because I am going to refer to those in the balance of my remarks because, if you look at them, I can't say they are nonpartisan. They are very partisan as to what they now want omitted from the package. So it seems like they have goalposts on wheels because now they want more omitted. Not only do they want more omitted but they do not want this package that the authorizers have completed in both the House and Senate. They don't want this package to be presented in the two bodies.

As evidence of that, Mr. President, I read the accompanying letter dated September 25. I think just the last sentence is in order. The letter is from Franklin D. Raines, Director of the Executive Offices of the President. "This conference report"—which is our authorizing effort—"does not meet the test. We remain willing to work with you to develop a compromise package that could be included in a bill to provide continuing appropriations."

So what they want to do is they want to cherry pick this 126-section, 41-State report—over 2 years of effort. Some of these things have been before my committee for over 4 years. Our committee acted in a bipartisan manner. We took the issues on the merits.

Let me show you what the administration proposed last night, and you can judge for yourselves.

Of course, title I, the Presidio, which we all support, is included. But when we get into title II, the Boundary Adjustments and Conveyances, it is rather interesting.

Section 216 they want omitted. That is conveyance to the city of Sumpter, OR. That happens to be Senator HATFIELD.

Section 218, Shenandoah National Park: That is Senator WARNER. Senator JEFFORDS has an interest I believe, and Senator ROBB also has an interest.

Section 219, Tulare conveyance: The Colorado delegation and perhaps the Utah delegation has an interest.

Section 220, the Alpine School District: Senator HATFIELD. They want that omitted.

Section 223, Coastal Barrier Resource System in Florida: Senator MACK, Senator GRAHAM, and I believe the Governor of Florida, a Democrat, happens to feel very strongly that this should be in there. They want that stricken.

There is a Unified School District. I think that is the California issue.

Several in Alaska: The Alaska Peninsula Subsurface Consolidation, which is a very, very small consolidation on the Alaskan Peninsula.

But here is a big one they want stricken: Snowbasin Land Exchange Act. That is big in Utah. That is big in the Olympics. That is big in Idaho. That is big out west. This is going to allow a land exchange so Utah can hold the winter Olympics. They want it stricken out of here. They don't want it. They don't want that land exchange. There are some, evidently, environmental objections somewhere. It must be a lot stronger than we thought. We held hearings on it. The base of support from the States and the Olympic Committee spoke for itself.

Sand Hollow Land Exchange: Another Utah issue they want stricken.

Out in Colorado, section 311, 312, 313: Land exchange with the city of Greeley, CO, for the water supply and storage company.

And, then there are a couple more: Gates of the Arctic Land Preserve Exchange; the Native's association land exchange.

They own our State. There is no question about that. As we try to make adjustments to accommodate our citizens, we go through a process of hearings, get the input, and get the State administration involved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. Mr. President, I was not aware there was a time limit on morning business.

The PRESIDING OFFICER. There is a time limit on morning business.

Mr. MURKOWSKI. I ask unanimous consent that I may have another 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair. I will try to be a little more rapid.

Colorado, section 101: Cache La Poudre corridor, Senator BROWN, Senator CAMPBELL.

RS2477, Section 405: An Alaskan issue.

They want to strike 406, the Hanford Reach protection which is out in the State of Washington.

Section 502, which is an historic area, the Vancouver National Historical Reserve: GORTON; MURRAY. They want to strike that.

Civil and Revolutionary War sites: That is section 602.

The Corinth, Mississippi Battlefield Act: I believe Senator LOTT.

The Richmond National Battlefield Park: Senator WARNER, and perhaps Senator ROBB.

Section 604, the Revolutionary War, and the War of 1812 Historic Preservation Study: Senator JEFFORDS.

The Shenandoah Valley Battlefield: Senator WARNER and Senator ROBB:

Ski area permit for rental charges they want stricken.

Visitors' services they want stricken. This is a park fee.

Glacier Bay National Park: Section 704 stricken.

And then out in the West: Senator BOND, Senator ASHCROFT, section 803, referral, burros and horses.

And, moving on, another Alaskan issue, 806, Katmai.

Senator CAMPBELL, section 811: Expenditure of Funds Outside Authorized Boundaries of the Rocky Mountain National Park, stricken.

Section 815: National Park Service Administration Reform; Senator BAUCUS, and Senator FEINSTEIN, I believe.

Mineral King, additional permits, Section 816, stricken.

Section 818, Calumet Ecological Park: I believe that is Senator SIMON, and Senator MOSELEY-BRAUN.

Moving over to others: Black Canyon of the Gunnison National Park Complex, stricken; 1021, Senator CAMPBELL, National Park Foundation, Senator BUMPERS and myself, stricken; 1027, 1028, 1029, the Deschutes basin ecosystem, Senator HATFIELD; Mount Hood Corridor Land Exchange, HATFIELD; creation of a forest; Senator HATFIELD; 1034, Natchez National Historical Park, Senator COCHRAN; and the rest of them are in this section 1035; and a few Alaskan issues of little consequence.

Mr. President, the point I want to conclude with is we as authorizers have done our job. There is an effort now to circumvent the legitimate process of the authorizers by momentum of the administration to put this in the appropriations package. I have committed to Senator GORTON. If they want to put the whole thing in, that is one thing. But I am not going to see the effort made by our authorizing committee and our conferees to have this simply cherry picked. Otherwise, there is absolutely no reason for our existence. If the appropriations process is going to pick up and cherry pick what we have done when we are ready to go, we have our holdings—at least I am sure on our side—addressed because of the way this process would proceed. The way this process would proceed, Mr. President, since we are ready to send it back over to the House by taking off the technical blue slip because of the tax implications, but we have to do that, of course, without objection. We are ready to do that.

Our job is done. The only risk to this is in sending it and subjecting it to a vote for recommittal. If the vote fails, the package is dead. But it will not fail. It will not fail in the House. It will not fail here. Give us a chance to vote on the package. Give us a chance to vote on what the authorizers have done here.

I implore my colleagues, particularly those who have been around here for a while, to recognize what this attempt is all about. They did not think we could get a consensus on the parks omnibus package. They thought all along they would be able to cherry-pick what they want out of it, but we fooled them. We got our job done. And now they are using the momentum of some in the minority to suggest they are going to go ahead anyway.

Well, we will see about that. We are ready to go. Our job is done. And to suggest some expeditious action by including it in the appropriations process at this late stage simply is not the way the Senate is supposed to function. I know that all of us get frustrated from time to time relative to our chairmanships, but this is a travesty of the process if this is a successful effort to cherry-pick those things and put them in the appropriations process when we are ready to go now. We can have it done today. We should be allowed to proceed.

So I hope that the leadership would reflect on that at noon when we proceed with the remainder of the calendar and just how we are going to treat these provisions, specifically the omnibus parks legislation, because at noon we will be ready to go subject to an objection. If there is an objection, I hope those objecting will come up with an alternative so that we can meet their objections, because our job is done. Technically, there is no reason why the parks omnibus package should not move ahead as it was intended and designed to do and as reported by the Committee on Energy and Natural Resources.

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I certainly understand and sympathize with the distinguished Senator from Alaska [Mr. MURKOWSKI], who, as chairman of an authorizing committee, has before us an important bill on which time has been spent and many hearings have been held. It is enormously frustrating not to be able to have that put before us and acted upon. I am very supportive of the efforts he spoke of regarding the Presidio bill.

WORK FORCE AND CAREER DEVELOPMENT ACT

Mrs. KASSEBAUM. Mr. President, I wish also to speak as chairman of an authorizing committee, the Labor and Human Resources Committee, about my frustration that we cannot act on a piece of legislation I think is very important. It deals with job training reform. It is called the Work Force and Career Development Act. Numerous hearings have been held on this bill over the past 2 years of the 104th Congress. It passed the Senate with only two dissenting votes. It passed the House. And now we have on the calendar a conference report. It is enormously disappointing to me that in the final days of the 104th Congress we are subject to dilatory tactics, and if legislation is not going to be called up today, or at the latest Monday, there is no hope of it succeeding.

So I would like to speak for a moment, before this legislation will be put in the dust bin of the 104th Congress, on the need for major job training reform. I would like to speak on why I believe it was so important for us to have been able to consider this legislation and my disappointment that it cannot be brought forward.

The legislation would have reformed our job training and training-related programs. There is no doubt that the current maze of training programs is woefully inadequate to address the very real and immediate needs of workers for training and education. I think nothing makes us more aware of this than reports we have continually heard about how important skilled workers are to our work force today and the importance of vocational education.

Despite over $5 billion which the Federal Government spends annually on our various job training programs, the results are less than impressive. Study after study has pointed out the waste and overlap among job training programs that now exists.

Just to name a few, in January of 1994, the General Accounting Office issued a report, entitled "Conflicting Requirements Hampered Delivery of Services."

Another GAO report was issued in March of 1994: "Most Federal Agencies Do Not Know if Their Programs Are Working Effectively." Other titles include: "Overlap Among Training Programs Raises Questions About Efficiency," and "Major Overhaul Needed To Reduce Costs, Streamline the Bureaucracy, and Improve Results."

According to a 1996 GAO report, entitled "Long-Term Earnings and Employment Outcomes," few training programs have been rigorously evaluated to assess their true impact on the long-term earnings of participants. While there may be some positive effects for participants shortly after training, the GAO found that over a 5-year period JTPA, the Job Training Partnership Act, participants rarely earn much more than comparable individuals who do not participate in that program, and their employment rates are only slightly higher. Despite months of training and placement assistance, the GAO could not attribute the higher earnings to JTPA training rather than to chance alone.

All too often, Mr. President, training programs spell disappointment for those who have sought assistance in building a better life for themselves and their families. That is why I think this is such a missed opportunity. We have talked and talked about reinventing government. That was an initiative that President Clinton, when he took office, announced he was going to undertake. This is a perfect example of where we had the opportunity to do so, and now we find we are thwarted from voting on the conference report on this important piece of legislation.

We heard testimony before the Committee on Labor and Human Resources from Ernestine Dunn who said that her experience with Federal job training programs was "a journey [she] thought would never end." She spent over 10 years and went through eight different job-training programs before getting the job skills and training she needed to get off welfare and into a permanent, well-paying job.

Her experience is not unique. With all the different programs and organizations that deliver services, people have difficulty knowing where to begin to look for assistance. As a result, they may go to the wrong agency or, worse, give up altogether. When training is provided, it often results in only part-time or temporary work. We must do better if we are going to create a world-class work force that can compete in the 21st century. I believe it is our responsibility to see that we assist and work with local and State governments and the business community to do just that.

The Congress and the President both agree that reform is long overdue. Less than 1 year ago, as I said, we passed this with overwhelming bipartisan majorities. Last October, the ranking member of the Labor and Human Resources Committee, Senator KENNEDY, remarked that "this is an area of public policy which is of great significance and importance to working families in this country and of great significance and importance to the United States as a nation and its ability to compete." That was true then and is even more true now. With ever rapid advances in technology, workers will have to constantly change and upgrade their skills in order to compete.

The importance of training and education were also central to the debate and passage of the welfare reform legislation this summer. In order for welfare recipients to successfully make the transition to work, they must have the training, education, and job skills that will help them get in jobs and stay in jobs. That is what this legislation is all about.

It is not about programming a child from kindergarten clear through high school in a career path. It is about giving our States and our local communities the resources to help design flexible programs that will meet the needs of Kansans, or meet the needs of those who live in New Hampshire or Maine or California. There are differing needs in differing States and at different times in a person's progress through school and work.

Again, that is what this legislation is all about. It would allow the States the flexibility to design integrated systems where services are delivered on a one-stop basis. No longer would an individual have to go to several different offices for help. With a one-stop system they could get job counseling, skills training, and other services all in one place. That is what the administration said they wanted as well.

Meeting these challenges will not be an easy task. One possible response might be to increase funding for education and training. We are on the way to doing just that. I am troubled, however, that we would pursue this course while leaving in place the same old programs which we all recognize do not work. More funding, I would argue, will not advance the type of major structural overhaul and consolidation of training and education programs that is needed to create a workforce system that can serve the local needs of job seekers and employers alike. It is a Band-Aid approach that deals only with the symptoms and not the underlying causes of the problem.

This bill would consolidate over 90 programs of various job training efforts scattered among 15 different agencies. It really does take us in a new direction that I think offers positive assistance. So, it is with enormous disappointment that I see these efforts may now be wasted—but I hope not—as we complete the 104th Congress. For those who will remain, because I will be retiring, it is my hope that what we have laid out here in months and months of work can provide a background for further efforts in the 105th Congress.

This legislation has been strongly supported by the National Governors' Association, both Democratic and Republican Governors. They believed this was one of the most important pieces of legislation that could be passed in this Congress.

The workforce development conference report that is now on the calendar is a result of 2 years of bipartisan work to develop a vision of a workforce development system for the 21st century. The elements of this common vision include:

Flexibility for the States to design systems that meet their own needs, while preserving the core activities traditionally supported by the Federal Government;

Greater coordination among educators, trainers, and the business people who create the jobs for which individuals are being trained;

Innovative strategies like vouchers to improve training; and

Improved effectiveness of programs by focusing on results, not bureaucratic redtape.

This conference report, I think, deserves the full support of all those, both Republican and Democrat, who were committed to achieving broad job training reform less than 1 year ago. One of the staunchest supporters of this effort is on the other side of the aisle, Mr. President, Senator KERREY of Nebraska.

Some have complained the conference report does not go far enough in preserving a Federal role in job training. Others claim it creates too broad a Federal role. I do not believe that any of the specific criticisms that were leveled against this bill are significant enough to bring down such a solid piece of legislation which has been years in the making.

I had hoped that what began as a bipartisan effort with passage of the reform efforts in both the Senate and House would come to completion in a bipartisan vote of support for the conference report. We are faced with a challenge of creating a new and coherent system in which all segments of the workforce can obtain the skills necessary to earn wages sufficient to maintain a a high quality of living. In addition, American businesses need a skilled workforce that can compete in the world marketplace. I believe this legislation gives the States the necessary tools to meet those challenges.

We should not have allowed the distractions of an election year to detract us from moving forward in a bipartisan fashion on this legislation, which I believe is so important.

Mr. President, I conclude by saying it is my hope that in the 105th Congress it will be one of the top priorities as we recognize how extremely important it is for us to address our skilled work force for the 21st century.

The PRESIDING OFFICER. The Senator from Maine.

LEAVING THE SENATE

Mr. COHEN. Mr. President, it is altogether fitting that I follow the remarks of my colleague from Kansas. I think those who have been watching have seen just an example of the kind of passion that she has brought to public service, the kind of strength and integrity that she continues to display even in the waning moments of this session. I know the country is going to miss her service. I am certainly going to miss being a partner in so many endeavors that we have had over the past 18 years in the U.S. Senate.

I must say, this is both a sentimental and a sweet moment for me. It shortly will mark 24 years of serving in both the House and the Senate. It is a mere blink of the cosmic eye of time, and it has all been telescoped into these final few moments as we conclude this session. So it is sentimental in that sense, but it is also sweet in another, because I have been standing in the glow cast by so many friends and their kind remarks. Last evening, Senator BYRD took the floor and delivered an encomium to me. I was pleased that I was not here to hear it, because, had I been here, I would have been too embarrassed to have remained on the floor.

If someone throws rocks at me, I am quite accustomed to throwing them back. But if you hurl a bouquet, then I am usually undone.

So, I thank Senator BYRD for his gracious comments last night, along with those of Senator NUNN, who also was most kind. He and I have served on the Senate Armed Services Committee for the past 18 years. I must say it has been truly an honor for me to have served with such a distinguished, intelligent, and dedicated individual, one who has dedicated his life to promoting a sound and responsible national defense policy, foreign policy, and, indeed, economic policy. It is my hope that sometime in the future we will be able to continue efforts in all of these areas.

While I have been caught up in the golden afterglow of the accolades of my colleagues and those of the editorial writers in my home State, I have always been mindful of Dr. Johnson's observation that: "In lapidary inscriptions, men are not under oath." I suspect there may be some truth to that as far as the editorial comments are concerned or final tributes to our departing Members. I might say, for my own part, I have been little more than Aesop's fly on the wheel of history's chariot, marveling that I could kick up so much dust in a period of 2½ decades.

I have also been deeply humbled by the experience. I think it is a testament to the openness of the people of this country, especially the people of Maine, that a boy who was born in the bed of his mother on the third story of a tenement building on Hancock Street, in Bangor, ME, just a block away from what used to be described as the "Devil's half acre" could, in fact, be elected to the greatest elective body in the entire world.

Maine people have always demonstrated a generosity of heart and, also, I believe, self-serving as it may sound, a great soundness of mind, to judge people not on their origins, not on their economic status, ethnicity or race, but on merit, and that is why, historically, we can point to people like Margaret Chase Smith, who stood on this floor so many years ago and delivered her "Declaration of Conscience."

It is why the people of Maine elected Ed Muskie, whom we lost just a few months ago who demonstrated his commitment to this Nation's interest in helping to clean up our waterways, improve the quality of our air and became known as Mr. Clean, then Mr. Budget, and the enormous contribution he made through public service to the entire country. The people of Maine are very, very proud of him and are working to memorialize all of his work.

They elected George Mitchell, who, in a very short period of time, became the Senate majority leader and one of the most effective in the history of this body.

They elected OLYMPIA SNOWE to replace Senator Mitchell when he decided to retire. Soon I believe they are going to send Susan Collins to sit beside OLYMPIA SNOWE. Governor King, who is an Independent Governor of the State

of Maine, made the comment when I announced my retirement, "What do you do? What does a State do when it loses Babe Ruth and Lou Gehrig?" I suspect he was referring to Senator Mitchell as being Babe Ruth and me as Lou Gehrig. But what do you do?

I might say the same for Kansas. What does Kansas do when it loses a Bob Dole and a NANCY KASSEBAUM? What the people of Maine will do is do what the Yankees did. They will go out and recruit Mickey Mantle, which they have done in OLYMPIA SNOWE, and Roger Maris, which they will have in Susan Collins.

I think all of us feel the sense of loss with so many leaving—some 13 now, with Bob Dole, 14—the U.S. Senate at the end of this term. We feel that perhaps things won't go on as they should. People talk about the "center no longer holding, of things falling apart." But I believe it was Charles De Gaulle who said "That our graveyards are filled with indispensable people." There will be others equally qualified, if not more qualified, to take our place in this distinguished institution.

I had occasion to travel out to Ann Arbor, MI, yesterday afternoon to partake in a conference that was held at the Gerald Ford Library. The moderator of the panel, which consisted of Tom Foley, Bob Michel, and myself, hit me with a question the moment I arrived. He said, "Why are you leaving? Why are you and so many others leaving?"

Of course, I could have given a glib answer and said, "Well, I'd rather have people wonder why I'm leaving than stay and have people wonder why I'm staying." But it was a serious question that required a serious answer.

Each of us are leaving for different and profoundly personal reasons. Some are departing the Senate at the end of this session because of age. Some are departing because of health factors. Some are departing, like my colleague from Kansas, for family reasons, of wanting to be at home with her children and grandchildren.

For me, I must say, there is never a good time to leave the best job in the world. There is never a good time to do that. But for me, it is the best time. I have what I would call a Gothic preoccupation with the relentless tick of time. I have served almost a quarter of a century on Capitol Hill representing the people of Maine, and I know that had I chosen to run one more term, the pressure would have been on to stay. "Well, now that you are chairman of one of the various committees on which you serve, we need to keep you where you are, so run again." So it would be 12 years from now I would then still be running after Senator STROM THURMOND, whom I am sure by that time would have renounced his late-blooming support for term limits and decided he wanted just one more term.

But the subject of term limits, of course, raises another issue. The people of Maine passed by way of referendum a proposal to place a two-term limitation on those who serve in the U.S. Senate. It was not binding, as such. It was not retroactive, and so it never would have applied to me or, indeed, to Senator Mitchell. But it basically said something about the mood of the people of our State; that they feel, or have come to feel, at least those who voted, that 12 years is long enough.

I must say, in the back of my mind, that weighed rather heavily; that even though it did not apply to me in any legal sense, in spirit, some were at least saying, you have been there twice as long as we would like to see people serve in the U.S. Congress.

I think it is a mistake. It is open, obviously, to a difference of opinion, with good will on both sides of this particular debate. But I think it is a mistake to suggest that people should only be here 12 years and move on. It will only, in my judgment, continue the churning of people moving in, moving out, and we will lose a sense of history that a Senator ROBERT BYRD possesses and that of Senator MOYNIHAN and others. I can go down the list of people who serve with great distinction, who bring such a wealth of information, a sense of history, a sense of reverence for the finest institution in the world.

That is a personal judgment on my part, but I think we should be wary of just pushing people in, pushing them out, relieving people of their responsibility of voting. We have term limits. We have them now. They are called elections. If you don't like what your elected official is doing, then go to the polls and vote them out. But, no, it is an easy way to say, "We don't even have to think about it, it is automatic. You have done your 12 years; now move on."

So that was something that weighed at least in the corners of my consciousness as to whether I should stay or leave.

I must say to my colleagues that my goal in politics has always been quite modest, and that is to help restore a sense of confidence in the integrity of the process itself, to help bring Washington a bit closer to the main streets of my home State. I have always tried to bring a sense of balance and perspective and, yes, let me use the word, moderation. It is not in vogue today to talk about being a moderate. We are frequently depicted as being mushy or weak-principled or having no principle, looking for compromise—another word which has somehow taken on a negative tone.

I recall after supporting the crime bill 2 years ago, a call came into one of my district offices, and a man was very angry. He said to one of my staffers, "I am angry with your boss."

I asked, "Why was he angry?"

He said, if you excuse the expression, "He's too damn reasonable."

Perhaps that will be the epitaph on my gravestone.

I believe it is essential to have passion in politics, provided that passion doesn't blind us to the need to seek, find and build consensus. Republicans and Democrats have different philosophies. We are different. We see the role of Government in different ways, of either the need for its limitation or expansion. But we have the same goal, and that is to provide the greatest amount of good for the greatest amount of people in this country. I also think it is sheer folly to believe that either party holds the keys to the kingdom of wisdom, and I think the danger to our political system is that each party is going to plant its feet in ideological cement and refuse to move.

The Senate has changed since I first came here. The personalities have surely changed, and that was to be expected. It was inevitable. We had people of such stature like Senator Ribicoff, Senator Baker, Senator Javits, Senator Tower, Senator Jackson, Senator Rudman, Senator Danforth, and the list goes on. They have all departed from this institution, and we lost a great deal when they retired or passed away.

So the personalities have changed, but the process has also changed. Toffler wrote a book some years ago in which he said we were entering the age of future shock, in which time would be speeded up by events and our customs and culture would be shaken in the hurricane winds of change.

Those hurricane winds of change have been blowing through this Chamber over the past three decades as well, and have changed, fundamentally, the operation of the Senate itself. The introduction of cameras into our Chamber has changed it, some for the good and some not for the good.

The House has always been able to act differently than the Senate. The House is a different body, a different institution with a different history. I served there for 6 years.

I recall reading that Emerson with a visitor in the gallery, pointed to the House floor, and he said, "There, sir, is a standing insurrection." And that is what it is. It is far more energetic and boisterous and full of passion because that is the House of the people. That is where they are closest to the people that we serve.

The House undertook a 100-day march at the beginning of this session. They passed some major legislation. The pressure immediately was on the Senate: "Why can't you do the same? We did all of this in 100 days. Why can't you do the same?" And the answer is, the Senate was never designed to act in 100 days, to take up the same agenda in the same period of time. We were designed to slow down the process, to be

more thoughtful about exactly what we were about, to take up major issues and to ventilate them, to debate them at length, if necessary, to allow the public to understand exactly what we were undertaking, to express their approbation or disapproval.

But now the pressure is on to move faster and faster, to become more like the House. That is a great institution, but we should not merge the two identities.

I think there has been a loss of reverence for our institutions. In fact, if you look, perhaps the Supreme Court may be the only institution for which there is a deep sense of respect and reverence, and perhaps that is because the mystique that surrounds it has yet to be torn away and shredded.

I find it troubling that we see shoving matches outside committee rooms in the other body. While poets have asked, "What rough beast is slouching its way toward Bethlehem," we have to ask, "What rough beast is slouching its way toward the Potomac?" Is it the Russian Duma? Have we come to shoving matches to make our points? It was discouraging to see that passions are so high that we have to resort to fisticuffs.

Perhaps there is a recognition that we have gone too far. We can take some hope that Members in the other body are now holding retreats and actually socializing. Think about that. They are deciding to socialize, Democrats and Republicans, something unheard of for the past 2 years, and now starting to socialize to get to know each other a little bit better so that perhaps during the height of those passionate debates, they might still maintain a sense of order and respect.

I remember during the Watergate process I served on the House Judiciary Committee that was debating whether to bring impeachment articles against Richard Nixon. It was more than 22 years ago. And I raised a question. I said, "How did we ever get from 'The Federalist Papers' to the edited transcripts? How have we come that far?" And I wondered yesterday, in the same vein, how did we ever get away from the kind of relationships that Gerald Ford and "Tip" O'Neill and Tom Foley and Bob Michel had with each other where they could vigorously debate their philosophical differences but go out and play a round of golf or have a drink after debate ended that day, and now we find ourselves filing ethics complaints against each other, a volley going back and forth to see who can make the strongest charges against the other?

Mr. President, there are many reasons why this is taking place. It would take a full day and longer to analyze them from a sociological point of view. I would prefer to defer to someone of Senator MOYNIHAN's stature and knowledge, to talk about social issues. But I think radio and television has contributed somewhat to that stripping away of reverence for our institutions. We now have journalists who are heralded as celebrities. They have radio shows and television programs though through which they have achieved a great deal of notoriety.

Some of them achieve notoriety by taking the most extreme positions possible and using the most inflammatory rhetoric they can, and, of course, as the rhetoric becomes more extreme, their popularity tends to soar. As their popularity soars, the invitations for them to come and address various conventions and groups also continues to escalate, as do their speaking fees.

Somehow, all of that excessive, inflated, and sometimes outrageous rhetoric starts to get recirculated back into the congressional debates, because then Members of Congress are invited to participate in those very shows and programs. They are then prone to come up with something equally extreme or quotable so that they can continue to be invited back on the programs.

So a little vicious circle has been set up and set in motion, with people then vying for the best quote, the most inflammatory, provocative thing they can say in order to make the news on that program or another.

There is also the hydraulic pressure that everyone in this body and the other body faces from the endless quest for raising campaign funds.

There is the rise of the negative attack ads. It is a sorry spectacle that we have been witnessing all too much. We all say that they are terrible, but all of the consultants say, "But they work." So we have allowed ourselves to lower the sense of decency and civility in this country by attacking character, trying to portray our adversaries, our political adversaries as enemies, as evil-minded people who have set out to destroy the fabric of this country.

We have witnessed the rise of special interest groups. There have always been special interest groups, but today they are far more organized, they are far more technologically advanced than ever before, and they have a greater capability than ever before of blunting and stultifying any attempt to forge legislation in the Congress.

Jonathan Rauch wrote an article for the National Journal some time ago—I think since has been expanded into a book—but it referred to the process as "demosclerosis," that the arteries of our democratic system have become so clogged with special-interest activities and organizations that it is virtually impossible to work any kind of change because single-minded groups have more at stake in preventing legislative changes than the general public has in supporting them. So there is that intensity of interest, and they are able to hit a button and suddenly flood our offices with 5,000 letters overnight or several hundred phone calls in the matter of a few hours.

There is also, I must say, a reluctance on the part of the Members of this body and the other body to touch the so-called third rails, to touch politically volatile issues like Social Security and Medicare and entitlements. All of us have been shying away from these issues.

We have to rethink exactly what the role of a U.S. Senator is. I always felt that it was the responsibility of Members of this body who are elected to come to Washington, to become as informed as they possibly could, to have an open door to all special interests—and everyone in this country has a special interest—to be open to all issues and arguments and advocates, and then to weigh the respective merits of those arguments, to sift through them and come to a conclusion and vote, and then go back to our constituents and explain exactly why we voted as we did, not just react to or appease the most vocal among our citizenry.

Some of that has changed. We do not quite do that anymore. Today, we are being driven by overnight polls. Today, we are lobbied intensively by various groups. Today, everything has become compressed.

Margaret Chase Smith, I mentioned her earlier. She used to sit over here to my right. She never announced a vote until the roll was called—never. And that was her particular mark that said, "I want to hear what all the arguments are before I make my decision." Most people cannot do that today. Most people are not allowed that luxury of waiting until debate is concluded before announcing their decision. Those who do run the risk of being criticized editorially or otherwise as being indecisive, possessing a Hamlet-like irresoluteness. You mean you do not know how you will vote on a bill that may come to the floor a month from now? Have you not thought it clearly through?

We are even ranked by various groups on legislation that we do not cosponsor, so that you have black marks listed next to your name if you refuse to cosponsor a bill that may never come to the Senate floor.

I have on occasion taken this podium and announced that the mail coming to my office and phone calls coming to my office were running heavily against the position I was about to take. Having said that on the Senate floor, my office would then be flooded with immediate calls saying, how dare you indicate that your mail is running two or three or four or five to one but you are going to vote the other way? How could you possibly be so arrogant? Well, of course, those callers presume that that body of mail and that volume of calls received reflect the will of the people of Maine, which may or may not be the case. Much of the time it is so highly

organized it does not reflect the general will of the people of the State.

But it also presumes that we serve no function other than to tally up the letters and to tally up the phone calls. You do not need us for that. You do not need a U.S. Senator to do that. All the people have to do is just buy a few computer terminals and put them in our offices, have the mail come in, count the phone calls, and then push a button and have a vote. You do not need us for that.

So we have to restore the sense of what the role of a Senator is. We have to really work to persuade our constituents that this is not a direct democracy, it is a republic. It is what Benjamin Franklin said: "We have given you a republic, if you can keep it."

So we have to dedicate ourselves not to a direct democracy, or to voting according to the passions of the moment of what an overnight poll may or may not show, but to consider thoughtfully and weigh the merits of the opposing arguments and then take a stand on an issue and try to persuade our constituents we have done, if not the right thing, at least a reasonable thing. If we cannot do that, we do not deserve to be reelected. That is the way the system should operate—not, take an overnight poll and formulate our policy to comport to what the overnight poll shows. Polling is now driving our policies, driving it in the White House—this is not the first White House—and it is driving it in Congress as well.

Mr. President, I am fond of quoting from Justice Oliver Wendell Holmes Jr, and the Presiding Officer as a very gifted attorney, I know, is familiar with his writings and his works.

He wrote at one point:

> I often imagine Shakespeare or Napoleon summing himself up and thinking: "Yes, I have written 5,000 lines of solid gold and a good deal of padding—I, who have covered the Milky Way with words that outshone the stars, yes, I beat the Australians in Italy and elsewhere, and I made a few brilliant campaigns, I ended up in a cul-de-sac. I, who dreamed of a world monarchy and Asiatic power." Holmes said, "We cannot live our dreams, we are lucky enough if we can give a sample of our best, if in our hearts we can feel it has been nobly done."

During the past 24 years, I have tried to give a sample of my best. I will leave it, of course, to the people of Maine to judge whether it has been nobly done. I mentioned a sample of the best, because yesterday for me was a very momentous day. I had the great privilege of cochairing a hearing held by the Senate Aging Committee and the Senate Appropriations Committee. For the first time in 18 years, I had the honor of sitting beside Senator MARK HATFIELD, a man whom I admire enormously, someone who stands as tall and straight and tough as any individual that has ever occupied these desks.

We held a hearing to deal with the issue of providing in some fashion more funding for research for medical technologies and developments. We had quite a remarkable group of people testifying before that joint committee. We had General Schwarzkopf who, having defeated Saddam Hussein's army on the battlefield, waged another kind of battle against prostate cancer. He was successful, and he is now waging a campaign on a national level to educate the American people of what the dread disease really entails and how it needs to be combated.

We heard from Rod Carew who talked about losing his 18-year-old daughter Michelle to leukemia, a very painful experience for him, and the television program that was shown to demonstrate her lightness of being, her generosity of heart and spirit was moving to all of us.

We heard from Travis Roy. Travis Roy is a young man from Yarmouth, ME. He was a great hockey player. He lived for the moment that he would take to the rink and play for Boston University. He suited up, stepped on to the ice, and 11 seconds later he became a quadraplegic, having been shoved head first into the boards. But to listen to him talk about what his aspirations are, that he wanted one day to have the kind of help, medical help that would allow him to get married, to hug his wife, to hug his mother, to teach his son how to play hockey, as his father had taught him, was quite a moment.

We had Joan Samuelson who has been waging a 9-year battle against Parkinson's disease. She talked about the day-to-day struggle that she has to encounter, and so many others, hundreds of thousands if not millions of others, have to confront every day of their lives, just to carry out functions that we take for granted.

We heard from a young woman from Oregon who is dedicating her life to become a research scientist but does not know if she will be able to complete that kind of education or whether the funding will ever be available to carry on medical research.

It was a momentous occasion for all of us. But what was equally poignant for me and memorable was the reaction of our colleagues. I paraphrased a poet during the course of the morning, and I said each of us, every one of us, here in the galleries, here on the floor, we all prepare a face to meet the faces that we meet. Every one of us puts on a mask every single day. But for at least a moment yesterday, every one of the Senators who were there dropped the mask of being U.S. Senators and revealed the pain and suffering that they, too, have known.

We had Senator PRYOR who talked about his son's illness, having cancer of his Achilles tendon and what that entailed. We heard from Senator CONNIE MACK who talked about the loss of his brother and his wife's fight against breast cancer. CONRAD BURNS, HARRY REID, BOB BENNETT, HERB KOHL—each one of them told a personal story of their own pain and suffering of that of friends and family members.

It was not, Mr. President, an adversarial hearing. It was a bipartisan meeting, a realization that we have to dedicate ourselves to defeating on a bipartisan basis common enemies that assault us daily. Yesterday we spoke of disease, but there are far more enemies that await us as we rocket our way into the 21st century.

There is something called a balanced budget. We can work toward a balanced budget on a bipartisan basis. This is not a political statement. This is a moral imperative. This is something that we have an absolute obligation to our children and our grandchildren to do. It does not matter whether you are a Republican or a Democrat or Independent. We have to balance the budget within a reasonable timeframe if there is any hope for ever solving this country's fiscal crisis.

Mr. President, we can have and we have to have a bipartisan consensus on the need for a strong national defense and a coherent and consistent foreign policy. I say this not as partisan, but we have lacked coherency, we have lacked consistency, and it has been to the great detriment of this country's credibility as the only superpower in the world.

I am fond of thinking back to a time when Churchill was being served his breakfast by his man-servant and, as the breakfast was being delivered to him, he said, "Take this pudding away; it has no theme." Well, we have been lacking a theme in foreign policy for too long.

You cannot pick up today's paper without being disheartened, if you look at what is taking place in Israel today, or Russia, or Bosnia, or Iraq, or China, or Japan. You cannot adopt the policy or the position that, well, I am just going to focus upon domestic issues. You can't focus just on domestic issues. You have to focus on foreign policy because foreign activities can overwhelm your domestic concerns and considerations.

We need to develop a strong bipartisan consensus on what the role of the country is to be in the next century. We have to do so and put aside those differences that we may have on other issues. Everyone is fond of saying, "We can't be the world's policeman." I agree, but we can't afford to become a prisoner of world events either. It requires us to be engaged, and requires us to be engaged not only with the President, which we have yet to be engaged fully, in my judgment, on a number of key issues; we have to be engaged with our allies and, indeed, even our adversaries. We have to have a world view. There is no such notion of coming back to America, of zipping ourselves in a continental cocoon and watching the

world unfold on CNN. We have to be actively and aggressively engaged in world affairs. History has shown that every time we have walked away from the world, the world has not walked away from us. The history of the 20th century has been one of warfare. What we need to prevent the 21st century from descending into warfare is an active, aggressive engagement in world affairs.

Mr. President, we need to have a restoration of individual and community responsibilities. We don't need to debate that issue as Democrats or Republicans. We have to return to the stern virtues of discipline and self-reliance. That should not be a matter of partisan debate. Everyone understands what has happened in this country by simply turning to Government to solve our problems. We have to get back to a sense of moral responsibility, fiscal responsibility, self responsibility, to be accountable for our own actions, and, yes, turn to the Government and have that Government care for individuals who are unable to care for themselves, be they poor, disabled or elderly.

We also, Mr. President, must work very hard on a bipartisan basis to heal the racial divide in this country. The words "affirmative action" are no longer in vogue; it is distinctly out of fashion to talk about affirmative action in America. Many people say it is the obligation of Government—if not the reality—to be colorblind. Well, we don't live in a colorblind society. It is a fiction. We live in a society in which racism is still very much alive. It is an evil that we have to rise up and confront day in and day out.

The notion that we are all starting from the same line, the same end zone, running a 100-yard dash, is pure folly. Can you imagine suggesting that we are starting out equal, when you have some young children in suburbia who go to bed with their laptops and teddy bears at night, and children in the urban areas who go to sleep still ducking bullets that are fired by gangs? Are they starting off equally in our society?

Affirmative action may not be the answer to these problems, but we cannot adopt a position of indifference or hostility to recognizing the need to overcome barriers that have been erected for centuries against people who have been deprived of their opportunity to participate fully in the American dream.

Mr. President, I could go on at length about the subject of the need to heal the racial divide, or the wound that has been opened up in our communities. I will save it for another time in a different forum, obviously.

I would like to conclude my remarks by referring to a book that was written many years ago by Allen Drury. If ever there was an author who captured the essence of what this institution at least used to be like, it was Allen Drury in his novel "Advice and Consent," written and published in 1959. He said something which I have carried around with me from those very days when I first read the book. He said about us:

> They come, they stay, they make their mark writing big or little on their times in a strange, fantastic, fascinating land in which there are few absolute wrongs or absolute rights, few all-blacks or all-whites, few dead-certain positives that won't change tomorrow, their wonderful, mixed-up, blundering, stumbling, hopeful land, in which evil men do good things and bad men do evil things, where there is a delicate balance that only Americans can understand, and often they, too, are baffled.

It was a wonderful description of Washington itself. But I have gone further back into the past in Mr. Drury's writings, and I found something even more pertinent and important to me. He kept a journal. He used to sit up in that press gallery and look down upon the workings of the U.S. Senate. He kept a journal between 1943 to 1945. It is a remarkable piece of writing. It is so brilliantly and eloquently expressed, I don't think there has been a better piece of writing since that time. He said something about the Senate which I would like to repeat for my colleagues, because I am sure that the book is not on the shelves of all of us. He said:

> You will find them very human, and you can thank God that they are. You will find that they consume a lot of time arguing, and you can thank God that they do. You will find that the way they do things is occasionally brilliant, but often slow and uncertain, and you can thank God that it is. Because of all these things, they are just like the rest of us, and you can thank God for that, too. That is their greatness and their strength, and that is what makes your Congress what it is—the most powerful guarantor of human liberties free men have devised. You put them there, and as long as they are there, then you can remain free because they don't like to be pushed around any more than you do. This is comforting to know.

I don't know, if Mr. Drury were sitting up in the gallery today, that he would look down and find as much comfort as he did in 1943 through 1945. But I must say that I do.

After all that I have said in pointing out all the difficulties and all the problems that confront us as an institution, I take hope. I look at people like BOB KERREY of Nebraska, JOHN BREAUX of Louisiana, KENT CONRAD, JOHN CHAFEE, OLYMPIA SNOWE, SLADE GORTON, who is sitting in the Chair, BOB BENNETT, PAT MOYNIHAN, and they are just a few—in spite of all of the difference, all of the criticism we have witnessed in the past—and JOHN GLENN who just walked through the door. I include him by all means in that category of people that I look to the future with great hope and encouragement.

I want to just point out that, several years ago, when Senator SAM NUNN and Senator PETE DOMENICI—two more giants in this body—offered an amendment to curb the growth of entitlements, I thought they came up with a very rational, responsible proposal. It said, let us take the entitlement programs that are growing at such a dramatic rate and see if we can't rein in those spending programs a little. Everybody who is entitled to enter a program can still come in and we will provide a cost-of-living adjustment, a COLA, every year, and for the next 2 years we will even add 2 percent, and then we will cap it at that rate. It sounded eminently reasonable to me. But what happened? How many people voted for that? I think it was 26. Only 26 Members were prepared to stand up and endure the wrath of our constituents, for fear that we were taking away something that they were entitled to. Well, that has changed,

Mr. President, thanks to people like you, the senior Senator from Washington, and thanks to the others I have mentioned, and so many more, we had a vote recently in which we presented a balanced budget that included some very difficult choices. It included reductions in the growth of Medicare. It included some tax cuts—not as much as many had hoped but more than perhaps many believe we are entitled to at this moment in time, but, nonetheless, tax cuts; Medicare reductions; reductions of a half of a percentage point in the Consumer Price Index. Some would like to have at least 1 percent, but half a percent is a very courageous thing from Members to do in an election year. Forty-six Members of the U.S. Senate went on record in favor of that. That is why I am encouraged that we will find men and women succeeding those of us who are departing and who will look into the eyes of their constituents and say, "This is something that is right for us to do."

The Social Security system eventually will go bankrupt, the trustees say by the year 2029. Around 2015, revenues collected will be exceeded by payments to beneficiaries. Medicare will be broke in 6 years.

It is a tragedy that the White House has absolved itself of this issue and has refused to come to the grips with the issue of Medicare solvency. I know what is going to happen. They will wait until the elections are over, and then, whoever wins at that time—if it is President Clinton who wins reelection, I can almost guarantee that the first thing he will do will call for the creation of a blue ribbon commission to resolve the Medicare crisis. It is an issue that should be debated this year. It should have been resolved this year, but it will not be.

I take hope, Mr. President, when I look at leaders such as TOM DASCHLE and TRENT LOTT. I know, again, what the reaction was when Senator Mitchell, my colleague from Maine—again, I

point out he was one of the most effective majority leaders in the history of this body—when he left, there was a great expression of woe. "What will we do?" When our distinguished colleague, Bob Dole, left, all of us felt the pang and the anxiety of saying, "What are we going to do now?" Bob Dole is no longer with us—a master at bringing people together.

I believe that we are still in good hands. I am impressed with the majority leader, with his drive, intelligence, and determination and, yes, his pragmatism, his willingness on key issues to reach across the aisle, and to say, "Can't we work this out? We have our differences, but can't we at least come to some kind of consensus on the major issues confronting this country?" I am enormously impressed with his talents, and those of Senator DASCHLE as well, both men of outstanding ability and good will.

To those people who declare that "the center can no longer hold; things are going to fall apart; the best are lacking in conviction while the worst are full of passion and intensity," I say nonsense. There are going to be people who will come to this Chamber who will be filled with passion, to be sure, who will argue strenuously for their positions. But I believe it is inevitable that they will come back to the center.

The center may have shifted slightly to the right. People are more conservative today than they were 10 or 20 years ago. But the center has to hold. If the center does not hold, then you will have stagnation. If the center does not hold, then you will have paralysis. If the center does not hold, you will have Government shutdowns. When that takes place, the level of cynicism that currently exists will only deepen to a point that is so dangerous that it will afflict us for generations to come.

Mr. President, Alistair Cooke summed it up for me in his wonderful book called "America." In one of his chapters, he made the inevitable comparison between the United States and Rome. He said that we, like Rome, were in danger of losing that which we profess to cherish most. He said liberty is the luxury of self-discipline; that those nations who have historically failed to discipline themselves have had discipline imposed upon them by others. He said America is a country in which I see the most persistent idealism and the greatest cynicism, and the race is on between its vitality and its decadence. He said we have—paraphrasing Franklin—a great country, and we can keep it, but only if we care to keep it.

I believe based upon the many friends that I have made here—the people that I admire and who are leaving with me, but those, more importantly, who are staying and those who will come—that there is a genuine desire to keep this the greatest country on the face of the Earth, a country that is still a beacon of hope and idealism throughout a world that is filled with so much oppression and darkness, and this will remain the greatest living institution in all of the world.

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

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATOR BILL BRADLEY

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to my friend, colleague, and the senior Senator from New Jersey, BILL BRADLEY, as he leaves the U.S. Senate. I have served with BILL BRADLEY for nearly 14 years, my entire tenure in this body, and it is difficult to imagine what it will be like without him. Although we have different styles, rhythms, and backgrounds, we formed an effective team which fought together for our State's and our Nation's interests.

Throughout his life, BILL BRADLEY has achieved remarkable success as a scholar, an athlete, an author and an outstanding public official. And whether he was helping his team to championships at Princeton University, the Olympic arena, or the floor of Madison Square Garden, or helping to pass landmark legislation on the floor of the Senate, BILL BRADLEY always strives for the best. He has performed always as a rising star, and I know that this is not his apex.

Mr. President, in the Senate, BILL BRADLEY concentrated on a few areas and helped to translate his own vision into public policy. As a member of the Finance Committee, he continually fought for fair tax policy, honest budgeting, and economic policies that enhance growth. He is widely known as the author of the fair tax, which was the foundation of the Tax Reform Act of 1986.

BILL also knew that the single best economic advantage is a good education. So he designed a new way to help pay for college. His self-reliance loans give all students, regardless of income, the chance to borrow money from the Federal Government.

He has been a strong voice against gun violence and crime in our communities and a creative thinker in developing opportunities for urban youth. His efforts are reflected in the enactment of community banking and urban enterprise zone legislation, educational reforms and community policing programs.

But what many of us will remember most is BILL's passion when it comes to issues involving equality. BILL established himself as a serious and badly needed voice in the national dialog on racism, pluralism, and discrimination. He has challenged every American to confront the festering sore of racism. In his keynote at the 1992 Democratic convention, he warned that "We will advance together, or each of us will be diminished."

One of his most powerful moments in the Senate, and one which I will never forget, was his denunciation of the horrifying beating of Rodney King. I will always remember BILL standing at his podium, pounding it 56 times with a bunch of pencils. His blows were meant to represent the beating administered by the police to Rodney King. The sound, resonating through the Senate Chamber, was a powerful reminder of just how far we need to go on the road to equality.

In the international arena, BILL BRADLEY was so energetic and committed that he traveled to the former Soviet Union for a weekend—to try to facilitate understanding between the superpowers, and to foster peaceful co-existence through economic cooperation.

With all of his achievements, BILL's chief goal in the Senate was to further the interests of New Jersey. He has written that he once received a special gift, a collection of every variety of rock found in our Garden State. I, too, think that it is the perfect gift, because what could better symbolize a man whose commitment to New Jersey's interests and her people was always rock solid?

His hard-working schedule would, on occasion, take BILL to New Jersey twice in a single day, in order to fulfill his obligations to meet with constituents, to help solve a problem, to deliver a talk to students, or to simply stay on top of the Garden State's needs. And his famous New Jersey beach walks, which he took during every one of the past 18 years, are symbolic of BILL's constant presence and consistent commitment to our State.

BILL has written that he prefers moving to standing still, well I know that wherever his journey takes him, his ultimate destination will be success, and all of us will benefit from his efforts. To my friend, colleague, and fellow New Jerseyan, I thank you for the contributions you have made, and for those yet to come. I offer my wish for continued success and happiness.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

REVISION AND EXTENSION OF REMARKS

Mr. HEFLIN. Mr. President, on Wednesday, September 25, 1996, notice appeared in the CONGRESSIONAL RECORD that a final issue of the CONGRESSIONAL RECORD for the 104th Congress will be

published on October 21, 1996, in order to permit Members to revise and extend their remarks. And then that there will be a publication of the RECORD, and that it would be available I believe on October 23. The material is to be submitted to the Office of Official Reporters of Debate at various times but up until 3 p.m. on October 21.

I ask unanimous consent that I be allowed permission to revise and extend remarks in connection with the space program, national security, trade, civil rights, crime, agriculture, drugs, foreign policy, domestic policy, and other related subjects including research and development matters relating to my State.

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

Mr. HEFLIN. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). 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.

FAREWELL TO "THE JUDGE"

Mr. DASCHLE. Mr. President, the time has come that, I daresay, every Member in this Chamber, Republican as well as Democrat, hoped would never come. With the end of the 104th Congress, we must say goodbye to "The Judge"—Senator HOWELL HEFLIN.

Since he was first elected to the Senate in 1978, the senior Senator from Alabama has always shown himself to be a southern gentleman of the first order. His word is his bond; his integrity and dedication to public service is without question; and his love of country and devotion for the U.S. Senate is apparent to all who know him.

During his 18 years in the Senate, Senator HEFLIN has been respectfully called the "spokesman for Southern agriculture" for his efforts to improve the life and work of America's farmers and to preserve his State's valuable agricultural heritage.

He is also commonly and warmly referred to as "The Judge," not only for his years of service as the chief justice of the Alabama Supreme Court, but for his efforts in State court reform, his extraordinary leadership in fighting crime and drug abuse, and his service on both the Senate Judiciary and Ethics Committees. Dozens of times I have observed my colleagues seek his advice on how to vote on legal issues.

Mr. President, I would like to add another characterization of "The Judge"—I think of Senator HEFLIN as "Mr. Alabama." No Senator has more cherished or more ably respesented his or her State than the senior senator from Alabama. He has magnificently and skillfully combined the national interest with the interest of his State through his support of Federal agricultural programs, America's space program, and the maintenance of a first-rate defense. Only in 1 year during his 18 years in the Senate did he fail to visit each of the 67 counties in his State in order to do what he says he likes best—"talk to the home folks."

The people of Alabama, obviously, appreciated his work and his service. Never once did he poll less than 61 percent of the vote in any election.

I will always remember "The Judge." I will always remember him as a "public servant who served with dignity, integrity and diligence, worthy of the confidence and trust that Alabamians placed" in him.

And I miss him. I will miss his folksy, southern humor. His stories of "Sockless Sam." His depictions of friends and foes alike—in his 1990 campaign, he did not run against a mere Republican, he ran against a "Gucci-shoed, Mercedes-driving, Jacuzzi-soaking, Perrier-drinking, Grey Poupon Republican."

Now the time has come. I say thank you and congratulations to Senator HEFLIN on a remarkable career in the Senate. I wish him all the best, and to his wonderful wife, "Mike," as they embark on the next phase of their lives—their return to Tuscumbia, which, "Mr. Alabama" has called "a wonderful little town to be from and best little town in America to go home to."

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT REQUEST—H.R. 1296

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent, after consultation with the distinguished Democratic leader, that we may turn to the consideration of the conference report to accompany the Presidio bill, and when the Senate turns to the consideration of the conference report, at this time, the reading be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. On behalf of a number of my colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, I obviously regret hearing the objection from the other side to dispense with the reading of the Presidio conference report. I am informed by the clerk that this would take awhile. It has been estimated at some 10 hours or thereabouts. Needless to say, the Senate has many very important pieces of legislation that we must enact prior to the end of the fiscal year.

This objection is an obvious indication that Members on the other side of the aisle do not intend or do not want to have this significant parks bill have consideration before this body. The objecters have been informed, it is my understanding, if they were to let the Senate turn to the conference report, that I, as leader, was to immediately ask unanimous consent that the conference report be recommitted back to the conference committee in order that the conferees could address several issues raised by the President. Consequently, since the objection was raised, that conference committee unfortunately will be unable to meet and address these concerns.

So, obviously, the will of the Members will not have been addressed, they will not have an opportunity to proceed with that. I regret that the Senate Democrats feel a need to block the Senate from enacting this massive omnibus parks bill, the single largest environmental package we have had before us that affects 41 States and includes 126 separate parks and public land matters.

Each Member will continue to work with the Democratic leader. Speaking for the leadership, Senator LOTT has indicated he will continue to work with the Democratic Members who have objections, but time is running out. So I urge all Members to rethink this objection, allow the conferees to address this very important issue.

Further, Mr. President, we are prepared—the Republicans are prepared; as chairman of the Energy and Natural Resources Committee, I am prepared; our conferees are prepared—to recommit this bill to conference. We can fix the provision which the leader referred to in his statement which causes that small problem in the House.

What it was, was a small tax-related problem. As you know, most all tax issues must originate in the House, so we have taken that out. We have the report here, Mr. President, ready to go, 700 pages, the result of 2 years of work, 126 separate sections are in here, 41 States are represented in here.

We have heard from the administration, but they objected to the Utah wilderness. Utah wilderness was not included. They went ahead and initiated an action under the Antiquities Act. That is another story for another time.

Grazing was a major issue, more objection from the administration. Grazing is not in here. The Tongass issue in my State to extend a contract for 15 years so we could build a new pulp mill and save 4,000 jobs, 1,000 directly in the

pulp mill by extending the contract. That mill will never be built. The existing mill will be shut down. We will lose our jobs. I do not know what those people will do. That was taken out.

Up in Minnesota, the Minnesota wilderness lakes bill was objected to by the administration. We took that out. We have had communication with the administration. We have tried to be responsive. They keep changing the goal posts. They move them back. So now we are in a position where, I suppose, the administration has prevailed on some Members on the other side, and we are down in this mire again.

Now, we have still, if we can clear those objections, an opportunity to move this. We are ready to go, Mr. President. As I have said, the work is done and our committee has acted. What we have is a rather curious process around here where the authorizing committees, when we get down to the end, seem to have no voice. But the appropriations effort is now to pick a few things out of here, put them on the Appropriations Committee, and abandon the rest.

I looked at a list that came in from the White House last night, and it is significant, Mr. President, to see what they want deleted. They want conveyance to the city of Sumpter, which authorizes the Secretary to convey 1.5 acres to the city of Sumpter, OR, for public purposes. They are prepared to veto the whole package. This is supposed to be the people's President. What in the world does he have against a place for kids to play?

I just met with a spokesman for the White House. They do not have any idea what is in here. They are simply carrying the bucket. Somebody said, object to that, we do not want it. That is Senator HATFIELD's will.

Section 218, Shenandoah National Park—Senators ROBB and WARNER and Congressmen BLILEY and WOLF in the House. It is interesting to identify who is who, because there is a certain amount of partisanship that you cannot help but see as a reality. It adjusts a 1923 boundary authorization to meet today's park boundary. The White House staff informs me they would have reached the same conclusion on the boundary adjustment but they needed more "process." Now, when they invoked the Antiquities Act, they did not need more process. They made a land grab in Utah of 1.8 million acres. It does not take anything away from the park. The old map authorized 500,000 acres. If we went to that limit, there would not be enough money in the Treasury to buy all the private farms and homes that would be in the park.

The Tular conveyance, CA, big issue in the House, affirms that land sold by the railroad to citizens in Tular, CA, is free from any title problems. That is section 219. They want that out. This was an attempt to bring some stability and certainty to land ownership in the town of Tular. This administration does not seem to care about the town, the folks, or their future.

Section 210, the Alpine school district, Senator KYL and Senator MCCAIN, 30 acres of lands for a public school facility. What in the world is wrong with supporting a school district and aiding in the education of schoolchildren? I thought this was the educational President. We took these up. We have had hearings, 2 years of hearings. We set up a process. This administration, in some of their rabbit-trail clearance process has come up with this lesson and said this is unacceptable.

I am saying we have an opportunity to move this, to remove the objections. If we do not, there is another opportunity and we can put the parks package as passed with the objectionable items they threatened to veto that I already outlined, and we will put the whole package in the appropriations bill and let it go. I pleaded with them to do that this morning. Well, they cannot accept all these little things. These are the little things they cannot accept now.

Coastal barrier resource system, all Florida issues, transfers 40 acres of development property out of 2.1 million acres of undeveloped resource area. This is what the Florida delegation and the Governor believes, Democratic Governor believes, is in the best interest of their citizens. Since this President knows better than the States and the elected officials what is good for the people, there is certainly no longer a need for State-level elected officials, if that is the case.

Section 224, conveyance to the Del Norte County unified school district, a big issue in California and House Members, transfers a small acreage to the school district for educational purposes. I guess it now takes more than a village to raise a child. The title to the new President's book is, "All You Really Need Is a President To Raise a Child."

I find this incredible, Mr. President. Here we are, picking the bones, if you will, of this legislation to suggest that Presidio should be lost, San Francisco Bay area should be lost, Sterling Forest should be lost. That is what they are saying. The Alaska peninsula subsurface consolidation, one of mine, authorizes the Secretary to exchange subsurface holdings of a small native corporation on an equal value—equal value—for lands and interest owned by the Federal Government. This will complete exchanges approved earlier. It was this provision of the bill that caused the tax problem. That was unfortunate. We have taken care of it. From this action I can only conclude that the President thinks it is a good idea to have private inholdings in national parks. We have taken that out.

Section 304—Olympic Committee, wake up—Snow Basin land exchange—I do not know whether they have simply written off the State of Utah as they have perhaps Alaska. Senators HATCH and BENNETT, Representative HANSEN. This allows expedited land exchange to facilitate the 2002 Winter Olympics which would be an economic boom to Utah, economic boom to the West, and an economic boom, of course, to the United States as well—the United States, Utah, the West. This has been in the process for 6 years, and we have received absolutely nothing from the Clinton administration as they try to balance some environmental objection. They want to balance it. I am not sure what the President has against the Olympics or the people of Utah. Maybe he would like to see the United States, I do not know, embarrassed in the eyes of the world by not coming through. As far as Utah, Alaska, Idaho, and a few other States, we are ready to secede from the Union. We would do better ourselves than trying to deal with a legislative process that this administration has dictated.

You know, I used to think, Mr. President, because we control the House and the Senate, we could perhaps get a few things done around here. It doesn't seem to be the case.

Section 309. Sand Hollow Exchange. Senators HATCH and BENNETT. Another Utah. They seem to be pointing at Utah. Equal value exchange to add acreage to Zion National Park and allows additional water to flow through the park.

His "own" people and the environmental community have pushed this exchange. I don't know what the President has against Utah. All I can conclude is that, perhaps, as a young man, Bill Clinton must have been pushed down by a big kid from Utah during recess. That is the best explanation I have heard.

Section 311. Land Exchange, city of Greely, CO, Senators CAMPBELL and BROWN. Equal value exchange to secure property needed by the city to secure ownership of a city's water supply.

Well, apparently, this administration would like to manage the city of Greely's water supply—having achieved world peace and cured the common cold, they apparently are bored and need something to do. Well, sorry, Greely.

Section 312. Gates of the Arctic National Park and Preserve land exchange and boundary adjustment. That is mine, Governor Knowles, Senator STEVENS, and Representative YOUNG.

This exchange would have led to more than a 2 million acre expansion of the Gates of the Arctic National Park and Preserve in Alaska—in exchange for lands in Naval Petroleum Reserve-Alaska.

Since when is helping the national parks a bad idea in the Clinton administration? The only conclusion that can

be drawn is they don't like it because it is not their idea. I don't know what else.

Kenai Natives Association land exchange. This would facilitate an exchange between the Kenai natives and the Fish and Wildlife Service to allow an Alaska Native Corporation to gain the economic use of their land, which would result from the acre-for-acre exchange.

There seems to be no rhyme or reason in the White House position. On one hand, they don't want to add 2 million acres to a national park and, on the other hand, they want to double the acreage put into a withdrawal.

Now, I know we can debate the merits of some of these. We did it in committee. But we had a committee action, Mr. President. We had a committee vote. We brought the package before this body. You can vote up and down on the package. Some members said, "Senator MURKOWSKI, why do you have this big package with 126 sections in it?" The reason we have this big package is obvious: Because Democrats—one specific Democrat from New Jersey had a hold on every single bill out of our committee. There were holds put on by the Senators from Nevada, one or the other. That is their own business. But that is why we could not move these bills in the orderly process associated with the every-day business of this body. So we waited until the end because that is all we could do, put it in the package, present it before the Senate, and that is where we are today.

Section 401. Cashe La Poudre Corridor, Senators CAMPBELL and BROWN, their number one priority. Establishes corridor to interpret and protect unique and historical waterway.

All I can conclude from their refusal to support this action is they don't think that the Cache La Poudre deserves to be protected. I guess the people of Colorado are wrong in wanting to preserve an important piece of their history.

Section 405. RS2477, a western issue, Senators MURKOWSKI, HATCH, BENNETT, STEVENS. Puts a moratorium on the putting new regulations in place without Congressional approval.

What in the world is the objection to that? That is the democratic process. This is "just" moratorium language. The minority and the BLM negotiated this language with us. We were all in agreement.

Out west again. Section 406. To be eliminated is Hanford Reach Preservation, Senator GORTON and Congressman HASTINGS in the House. Extends a moratorium on construction of any new dams or impoundments in this area.

Can we conclude from this action that Clinton wants to start building dams on the river? I don't know.

Section 502. Vancouver National Historic Preserve, Senators GORTON and MURRAY. It changes a historic site into a national park. I don't know whether Senator MURRAY and Senator GORTON don't know what their constituents want, but I assume they do.

Section 602, stricken. Corinth, Mississippi Battlefield Act. This is Senator LOTT, who has been working on it for a long time. Establishes a National Park Service Civil War site in Mississippi. Is there something wrong with honoring the events associated with the Civil War in Mississippi? Or could it be that this is the majority leader's State, Mississippi?

Moving a little further north in the south, section 603. Stricken. Richmond National Battlefield Park, Senators WARNER and ROBB. Establishes boundary in accordance with a new National Park Service management plan, dated August of this year.

The administration is concerned about the process. This did not seem to bother them when the President declared a national monument in Utah, which was created with no process. But the administration's excuse here, to establish a boundary in accordance with new National Park Service management plan, dated August of 1996. Is that an administration that is concerned about the process? Come on, give us a break.

Where were the administration's explanations when the land grab was made of 1.8 million acres in Utah, over the objections, and without the knowledge of the process even occurring—no public hearings and no notification to the Utah delegation. They didn't do it, Mr. President, as you will recall, in Utah. They went to Arizona and put the desk on the edge of the Grand Canyon—a big show. The press bought it, they are gullible. They bought it hook, line, and sinker. They knew there would have been a few objections. A few school kids would have said, "Hey, what about our school funding from some of this land?" There was no public process. I tell you, when you start to try to identify who is responsible for these things, the accountability is awfully hard to find in this administration, but there are a lot of rabbit trails that are easy to find.

Section 604. Revolutionary War, Senator JEFFORDS. That was a study to determine if these sites warrant further protection.

Most of the problems we have had with this administration is that they simply leap before they think. I guess the idea of studying the need for something before doing it perhaps is a bit alien in the concepts of the White House. That has been proven time and again. This is very important to Senator JEFFORDS. It is a study to determine if these sites warrant further protection.

Section 607. Shenandoah Valley Battlefield, Senators WARNER and ROBB again. There is an election in Virginia this year, I believe. This would establish a historical area. It doesn't make a new park. This they want stricken. This is what the delegation wants. That is why we held the hearings. That is why we had the input. That is why we responded. Can they not be trusted, their own delegation, to determine what's right for their own constituents? Evidently not, because the White House wants that stricken. That is part of their veto package.

Ski Area Permits, 701. This simplifies a very complex ski area fee collection process, making collection easier, cutting down on the administrative costs, and it provides more funding for the Forest Service and other Federal agencies that are collecting ski area permits. It is supported by the ski industry and supported by the ski operators.

As far as we knew there was not any objection to it. This is supported by the National Ski Association and the Western States elected officials. We are elected officials. That is what I do not understand about this process. We are supposed to know something about what the people want. We are supposed to hold hearings. We are supposed to initiate a process. We have done that in these 126 sections of this bill. Now they are saying this is what is wrong. This is what we want out. And we can only speculate that the rationale is based on the conversations we have had.

Make no mistake about it. This is a process of long deliberations. This package is part of a process. That is why it is so important it stay together. We have taken again those items out that they want to initiate a veto on, and now they have come back again.

Section 703—visitor services—would raise $150 million for parks to help with badly needed repairs of existing park structure. One hundred percent of new fees go back to the park.

I do not understand the opposition to this. We had testimony in support of it. It is simply ridiculous. The Park Service needs these funds to maintain operations.

This seems like a blatant attempt to tear down the national parks and blame the Congress. The national parks are over $4 billion behind on maintenance. Here is a way to generate some relief.

Section 704—Glacier Bay National Park—raises fees to support research and natural resource protection through a head tax on passengers that go into Glacier Bay. And the only way you can get in there is the cruise ships. It is a 90-day season. It starts Memorial Day and ends Labor Day.

What is wrong with that? Never let it be said that this administration would let scientific data get between them and a political decision.

Section 803—feral burros and horses. This is a Missouri issue; Senator ASHCROFT, and Senator BOND.

Notice the trend here, Mr. President, as we address the partisanship.

This bill would prevent the slaughter of wild horses by the National Park Service. It would prevent it. Take a look at it, you environmentalists out there.

Section 803—feral burros and horses; ASHCROFT, and BOND. The bill would prevent the slaughter of horses by the National Park Service.

It is not bad enough that the White House has declared an open hunting season on people of the West. They want to shoot the horses that they rode into the West on as well, it seems. It is the only conclusion I can come to.

Section 806—Katmai National Park Agreements. It means a lot to Congressman YOUNG. It authorizes the U.S. Geological Service to drill scientific core samples. This is volcanic research. In Alaska we have a pretty hot plate. It blows up occasionally. It is about ready to do it here. We have volcanoes. We have earthquakes. This is volcanic research authorization.

What is wrong with that? Maybe Mr. Clinton needs to live at the base of an active volcano, and he would appreciate the need for the advanced volcano research. And where do you do it? You do it where you have volcanoes. You don't do it in Vermont or Washington, DC. You do it out on the Alaskan peninsula.

That is what this is all about. They object. They want to veto this over that.

I hope the American public would just be indignant for picking out these—well, you have to judge for yourselves.

Section 811—expenditures of funds outside the boundary of Rocky Mountain National Park.

That is rather interesting because that again focuses in on the great State of Colorado—Senator CAMPBELL, and Senator BROWN.

It simply allows the National Park Service to build a visitors center outside the park, mostly with private funds. They don't want that.

Section 815—National Park Service administrative reform—provides authorities which the National Park Service has requested for years—aid parks in protection of resources and provide facilities for employees; provides facilities for National Park Service employees; provides Senate confirmation of the National Park Service Director.

In keeping with that theme, not only evidently does this administration—the President—not trust his park employees, now he wants them to live under substandard conditions, which a lot of them are doing.

So what we have attempted to do—this isn't the Senator from Alaska doing this. This is a process that occurred in our committee by the introduction of the bill, hearings held, voting it out to the floor, and putting it into the package. That is the process. We had a process, not like the inequities in the Utah land where there was no process.

Section 816—Mineral King—a California issue—extends summer cabin leases. I am not familiar with it—totally discretionary by the Secretary.

Opposition to this provision I think is simply ridiculous. The Park Service needs these funds to maintain operations.

This seems like a blatant attempt to tear down the national parks and blame the Congress, I guess.

Mr. DORGAN. Mr. President, I wonder if the Senator will yield.

Mr. MURKOWSKI. I would be happy to yield. But I want to finish my statement, and then I would be happy to yield for a question.

Mineral King—I want to finish that. That is a California issue—extends summer cabin leases totally discretionary by the Secretary.

Again, I can only assume that the President does not trust his Secretary of the Interior or his Park Service folks to do what, obviously, a majority of the committee felt was the right thing.

This bill, of course, gives them complete control.

Section 818—the Calumet Ecological Park—that is Senator SIMON and Senator MOSELEY-BRAUN—a study to extend the I and M Canal National Heritage Corridor to incorporate a large portion of Chicago.

I am not conversant on that. But it certainly sounds reasonable.

Section 819—they want stricken—acquisition of certain property in Santa Cruz.

There are goats evidently that are ruining the island. Provisions in this bill would allow the National Park Service to address the removal of the goats from the island and try to restore a more pristine condition. It does not authorize the shooting of the goats, I might add. This portion of the island that is not under Government management I am told looks like certain areas of Afghanistan. The remainder of this island needs to be protected.

Section 1021—the Black Canyon of the Gunnison National Park. This is a major issue for one Senator, Senator CAMPBELL.

It formally creates a recreation area. Changes monument status to a park. Creates a BLM conservation area. Creates 22,000 acres of wilderness. Has all the four management agencies involved operating under one complex. Extensive hearings; extensive support; no questions about this. But it is on the list for veto.

National Park Foundation—I believe Senator LIEBERMAN, and myself—provides for the opportunity for the private sector to sponsor the National Park Service similar to the sponsorship of the Olympic games. We accepted Senator BUMPERS' six amendments which clarify that the sanctity of our National Park Service will be maintained. Clarifies that in no way the corporate entity can overcommercialize the Park Service.

The national environmental community is ginning up opposition against this. Well, let them come up with the $4 billion that is necessary to provide adequate maintenance in our parks.

They are quick to criticize. But when somebody comes up with a solution, obviously, they criticize but they don't counter with a response.

Mount Hood—Senator HATFIELD—1028—exchange between private company and Federal Government. Provisions already in the continuing resolution.

Section 1029—creation of the Coquille Forest—Senator HATFIELD—equal value exchange creating a tribal forest.

Section 1034—Natchez National Historical Park—creates an auxiliary area to the National Park Service unit, and provides $3 million for intermodal transportation system and a visitors center.

Is this administration opposed to creating less intrusive modes of transportation to allow more people to be able to enjoy the magnificent national park system, or are they just opposed to Republicans getting something for their home States? I don't know whether this is just a partisan shot. But it sure looks like it.

Section 1036—rural electric and telephone facilities—it authorizes the BLM to waive right-of-way rental charges for small rural electric and phone cooperatives.

Section 1037. Federal borough recognition, payment in lieu of taxes. This allows the unorganized borough in Alaska to receive PILT payments. They are unorganized, few people living there; 60 percent of the Federal lands in Alaska are in this borough. The administration did not oppose this during the committee action, and the language was worked out in cooperation with them. The administration supported this in committee. This is a slap in the face to my State, the rural Alaskans in my State, who lose out on economic opportunity because of the massive amount of public lands in their backyards. What could possibly be the reason for opposing this other than it is in a State that probably will not vote for the President?

Alternative processing, 1038.

The PRESIDING OFFICER. The Senator's 5 minutes under the morning business agreement has expired.

Mr. MURKOWSKI. Mr. President, I have about 3 more minutes. I wonder if I may be allowed to complete this statement.

Mr. DORGAN. Reserving the right to object, and I shall not object, certainly, I would like to ask if we might lock in some time for a bill introduction following the completion of the

work by the Senator from Alaska. I would like to be recognized for 12 minutes; the Senator from California, Mrs. FEINSTEIN, for 12 minutes; and Senator REID of Nevada, for 12 minutes.

The PRESIDING OFFICER. Is that a unanimous consent request?

Mr. DORGAN. Yes. I make that in the form of a unanimous-consent request.

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

Mr. MURKOWSKI. I thank my colleague.

Section 1038. Alternative processing. This is an attempt to save the remaining jobs in my State, in southeastern Alaska in a timber area. Why doesn't the President just tell us: I want the remaining jobs to go away. I want the communities to go away, or simply suffer.

That is what he is doing. What this would do would be to simply transfer timber that is being used as pulp, as a designation of that timber under an 8-year contract that is binding to be transferred over to sawmill use so that, as we lose our pulp mills, we can continue to have a supply under a contractual commitment to our sawmills. We only have four sawmills, three of which are running. The other one is not because they do not have enough logs.

So we have taken our pound of flesh on this package. We have withdrawn what we hoped the administration would support and that was a 15-year contract to allow a $200 million investment to bring our pulp mill up to environmental standard. They would not support that.

Section 1039. Village land negotiations. This is another slap in the face of Alaska Native people. This provision just asks the Secretary to talk to five tiny Alaska villages that have waited more than 20 years for a conveyance that they were promised. This is a classic example of the Federal Government using the old bait-and-switch routine on America's native people and having no intention, evidently, of making good on the promises.

Section 1040. Unrecognized communities in southeastern Alaska. That merely let five communities in Alaska establish as a group or urban native corporations. It involved no land transfer. It was a Alaska Native equal rights bill that gave these people simply an opportunity or the authority to proceed. No land transfer was associated with it—another solution in which the Federal Government has turned its back on Alaska Natives.

Section 1041. Gross Brothers. They served their country in uniform. They lost their deed. Their country is denying them the land they homesteaded, land they lived on.

Section 1043. Credit for reconveyance. This would have allowed Cape Fox Corp. to transfer 320 acres of land near a hydro project back to the Forest Service. They would not have gotten any land in exchange. I do not know why they oppose that. We are giving the land back.

Section 1044. Radio site report. A study to determine if radio sites are needed.

Section 1045. Retention and maintenance of dams and weirs. Forces the Forest Service to maintain specific dams and weirs in the Immigrant Wilderness.

Section 1046. Matching land conveyance, University of Alaska. This authorization is for the Secretary of the Interior to discuss—discuss, not mandate—a land grant with the University of Alaska, which has never received its Federal entitlement, on a matching basis with the State.

Once again, this is an education President striking again against education, and I just do not understand the rationale. This is the only statewide university in our State. It is a land grant college. It has no land in the largest State.

In conclusion, Mr. President, I want to advise my colleagues also that I have maintained that we have put this package in the most responsible form. It is ready to go. If it does not go, if it does not go in the package, it is not going to go. We will have to come back and start the process all over again. We will lose Presidio. We will lose the San Francisco Bay area cleanup. We will lose the issues in New Jersey, Sterling Forest. We will lose 126 sections of hard work that came out of the democratic process simply because, by executive mandate, this administration says they will not accept it. I find that unconscionable.

I am very pleased with the action of our leader in introducing this. I hope we can address the concerns of the minority, and I am willing to work with the minority to try to do that in the time remaining.

With that, I yield the floor. I thank the Chair and my friend for allowing me to continue. I appreciate their graciousness.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for up to 12 minutes.

Mr. DORGAN. I did not, when I asked the Senator to yield, intend to discuss goats or horses, or erupting volcanoes for that matter. I expect there will be a rejoinder at some point on the floor, but that was not my intention. I appreciate the courtesy of the Senator from Alaska.

(The remarks of Mr. DORGAN and Mrs. FEINSTEIN pertaining to the introduction of S. 2140 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DAKOTA, MINNESOTA, AND EASTERN RAILROAD CELEBRATES 10TH ANNIVERSARY

Mr. PRESSLER. Mr. President, this month marks the 10th anniversary of the Dakota, Minnesota, and Eastern [DME] Railroad. The DME is South Dakota's only statewide railroad and operates more than 1,100 miles. I offer my heartfelt congratulations to the DME. I particularly commend the many dedicated workers and officials who have worked to make DME such a successful rail service provider. All associated with DME should be proud.

I recall back in 1983 when I first became involved in a lengthy battle to preserve critical rail service slated for abandonment. The Chicago and North-Western was planning to abandon 167-miles connecting Ft. Pierre and Rapid City. That fight ultimately lead to establishment of the DME.

At first, many were skeptical about DME's prospect for success. Those same skeptics are believers today. DME's annual revenue and freight tonnage have doubled during the past 10 years. So has its number of employees. And, more than $90 million has been invested in main line infrastructure improvements during that same period.

I am proud to have played a role both in DME's creation and its successes. I have enjoyed working closely with rail shippers and DME to advance this critical transportation service. I remain committed to doing all I can to promote adequate and effective rail service for our State.

Mr. President, I ask unanimous consent that an article by Roger Larson and an editorial printed in the Huron Daily Plainsman detailing the DME odyssey be printed in the RECORD.

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

[From the Huron Daily Plainsman]

LAYING TRACKS FOR THE FUTURE

(By Roger Larsen)

Larry Pressler says 1989 marked the beginning of what he now calls his "DM&E odyssey."

Dakota, Minnesota & Eastern Railroad officials are more direct. Without the senator's intervention, they say, their corporation wouldn't exist.

And South Dakota's roads would be taking a severe pounding.

"If we weren't here, it would probably take about 50,000 semis hauling on the state and U.S. highways here in South Dakota, which would certainly cost the state a lot more money in road and bridge maintenance," said Lynn Anderson, DM&E's vice president for marketing and public affairs.

Looking back on their first 10 years in operation, DM&E officials say Pressler, at substantial political risk, was instrumental in the railroad's creation and survival.

It hasn't always been a smooth ride.

The short-line railroad was born out of necessity—and a sense of urgency—when the Chicago & North Western Railroad announced in 1983 that it wanted to abandon 167 miles of track between Pierre and Rapid City.

Pressler received an emergency phone call. Could he send a representative to a meeting of shippers and others in Philip?

He went himself.

"I worked with local shippers in organizing an abandonment protest," he said. "That triggered a formal ICC (Interstate Commerce Commission) investigation."

As C&NW pushed forward with its abandonment plans, an ICC field hearing was conducted in September 1983.

"The ICC decision in November denied the abandonment request," Pressler said.

The ruling by the administrative law judge surprised more than a few people who had become resigned to the situation.

But the judge based his decision on "the serious impact of the loss of rail service on rural and community development or the lack of any viable rail or motor carrier alternatives to that service."

"At that time, I was the only public official in the state who believed the 167-mile stretch could be saved," Pressler said.

Anderson doesn't believe the senator is overstating his involvement.

"Well, I think he was the key individual that worked to keep the railroad in place between Pierre and Rapid City," he said. "Without the things he did and the support he gathered, I think there's a good likelihood the line would have been abandoned."

The judge's decision, PRESSLER said, "allowed us more time to work with C&NW to find a long-range solution to the Pierre-to-Rapid-City line problem. It was the only route west for years."

Still, C&NW remained adamant. It appealed the ruling to the full ICC. In February 1984, it was upheld on a tie vote.

By August, the railroad again announced it would continue its efforts to abandon the track.

"C&NW made it clear that there was no interest in compromise," PRESSLER said. "They wanted to get rid of it. Early attempts to come up with a long-term solution seemed to fall on deaf ears."

Eyebrows were raised in January 1985 when C&NW extended its abandonment plans all the way to Wolsey, pushing the total to 273 miles. The Aberdeen to Oakes line in northeastern South Dakota was also being considered for abandonment.

C&NW declined invitations to negotiate. The future of the rail lines looked bleak.

A breakthrough came when PRESSLER intervened in a proposed sale of Conrail to the Norfolk Southern Railroad, a merger that C&NW claimed would cost it $60 million a year in traffic diversions.

In return, C&NW approached the negotiating table with a commitment to find a potential buyer of its South Dakota track.

And in dramatic fashion, those along the track provided a huge show of support.

"C&NW joined me in a day-long working train trip in May 1985." PRESSLER said. "We rode in a rail car between Rapid City and Pierre. Twelve hundred people turned out along the way to express their support for continued service. That really helped turn things around with C&NW officials."

For the first time, the shortline or regional railroad concept was introduced.

And that trip across South Dakota's prairie seemed to have a calming effect on the players.

"It coalesced everyone," PRESSLER said. "It was the first time all sides sat down and discussed the issue with the uniform goal to make the line work. Everyone agreed it would take some give and take."

At a rail conference in September 1985, C&NW outlined a divestiture proposal which led to the birth of the DM&E Railroad.

A year later, the new railroad's locomotives were pulling cars full of grain, lumber, wood chips, bentonite clay and cement.

This summer, 100 miles of deteriorated track between Wessington and Pierre has been upgraded with new, 115-pound rail. This $20 million project is being financed by a bond issue the railroad will repay over 20 years with no state dollars.

The project is two months ahead of schedule. Crews are in the stretch run, laying new track between Blunt and Pierre.

In May, DM&E added 203 miles to its system when it purchased the "Colony Line" from the Union Pacific Railroad.

The line connects with the DM&E at Rapid City and extends north to Bentonite near Colony, Wyo., and south to Crawford and Chadron, Neb., where it links with Burlington Northern Santa Fe and Nebkota Railway.

"We are looking forward to a smooth transition" DM&E president J.C. "Pete" McIntyre said when the sale was announced.

The railroad purchased 12 more locomotives and hired 50 employees, increasing the workforce to more than 300.

"These are good-paying jobs and benefits," *Pressler* said.

Also, the railroad announced it is spending more than $32 million for 625 new freight cars, including 325 covered hoppers to haul cement from South Dakota Cement Plant at Rapid City.

Others—such as grain elevators along the rail line—have made major improvements as well.

It's obvious to Anderson that had C&NW been successful in its abandonment efforts, the line wouldn't have been rebuilt.

"Business would have gone over to the Nebraska line," he said.

But because it didn't—and rail traffic now travels in South Dakota—it means long-term economic development for the state, he said.

"The C&NW had rerouted traffic out of the Black Hills to Nebraska," he said. "When they failed to abandon the line from Rapid City to Pierre, they decided to sell it.

"After we began operations, and began upgrading the line and showed the ability to handle the carload business, we convinced C&NW to reroute that traffic coming across South Dakota in lieu of Nebraska."

And then C&NW decided to abandon the Nebraska line.

"The reverse could have happened," Anderson said.

Ten years ago, one of the first repainted C&NW locomotives was named the "Larry *Pressler*." Since then, locomotives have carried the names of cities along DM&E's service area.

The railroad also honored him by naming a Rapid City intersection "*Pressler* Junction."

Pressler admits he was like a kid in a candy store on a particularly memorable trip back home.

"They let me drive a locomotive a little bit once," he said.

DM&E KEEPS S.D. ON THE RIGHT TRACK

In the middle of the night, a train whistle carries a mournful, lonely sound on the prairie air.

As homesteaders pushed westward in the 19th century, the advent of trains signaled hope and opportunity in the uncertain vastness of Dakota Territory.

Today, they continue to represent a kind of comforting stability.

They have become as familiar to the landscape as rolling grasslands and an endless horizon. But trains in much of west and central South Dakota were nearly derailed by a corporate stroke of the pen a decade ago.

Chicago & North Western Railroad wanted to abandon its deteriorating track between Rapid City and Wolsey. It talked about walking away from its line between Aberdeen and Oakes, N.D., as well.

In historic fashion, shippers circled their wagons and waited for reinforcements. And, as their forefathers had done with other territorial disputes, they pushed for a reasonable solution.

Into the mix came Sen. Larry Pressler, R-S.D., who rightfully used his political standing in Washington to force field hearings.

In the end, it came down to a little give-and-take. C&NW's back was scratched when a railroad merger elsewhere in the country—which could have hurt its bottom line—was opposed by Pressler. In return, the boys in the C&NW boardroom agreed to find a buyer for the track it wanted to abandon in South Dakota.

Thus, the birth of Dakota, Minnesota & Eastern Railroad.

DM&E has been a good corporate neighbor in its first 10 years. It has proven it can handle the needs of shippers, farmers and other customers up and down its 900-mile line.

And it's doing something else that's certainly long overdue.

It's putting its money—and longterm viability—where its mouth is.

With the current track upgrade between Wolsey and Pierre nearly complete, DM&E has invested some $90 million in infrastructure. Millions more dollars have been committed to purchase hundreds of new rail cars.

Trains have had a romantic, endearing quality in this part of the country for well over a century.

For those who truly care about the future, their whistles will continue to beckon with faith and anticipation.

ECONOMIC NEEDS OF PUERTO RICO

Mr. JOHNSTON. Mr. President, since 1973, my first year in the Senate, I have spent a great deal of time and energy on issues affecting Puerto Rico. I rise today to voice my concern for our fellow citizens in Puerto Rico, who have been greatly affected by our recent action to eliminate economic development incentives under section 936 of the Internal Revenue Code without providing them with an alternative program. I understand the need to curb excessive corporate tax benefits in order to get our Nation's fiscal house in order. However, in accomplishing this, we must not ignore the needs of the people of Puerto Rico. The 3.7 million American citizens of Puerto Rico deserve the opportunity to become economically solvent and self-sufficient. We must work hand in hand with them to develop a sound economic development program that helps achieve those goals. Modifications, improvements or alternatives such as a wage credit have been suggested for Puerto Rico. All of these options deserve serious consideration, but above all we must not allow the economy of Puerto Rico to be devastated by inaction or the wrong action by Congress. Although I shall not be returning for the 105th Congress, I

urge my colleagues to give prompt attention to this issue early next year.

AMERICA, WHO STOLE THE DREAM?

Mr. HOLLINGS. Mr. President, lost in the rhetorical haze generated by pollster politics is a serious discussion of the principle challenge facing this Nation, that is, how can we arrest the decline in wages and living standards and restore the American Dream. Instead of addressing this fundamental issue, what currently passes for political discourse is a mindless discussion in which each candidate stands up and proudly proclaims that he or she is for the family and he or she is against crime. What neither party wants to address is the immutable connection between two decades of economic stagnation and dislocation, and the breakdown of families and the destruction of communities.

In the past decade over 2 million high paying jobs in manufacturing have disappeared. The social fabric of hundreds of communities have been ripped apart. Those who have jobs are working longer and harder for less compensation. Isn't it more than a coincidence that the breakdown in the family and the collapse of our inner cities would coincide with an unprecedented era of economic insecurity? Once the land of opportunity, America now has the worst distribution of income in the industrialized world.

Fortunately, the Philadelphia Inquirer has filled this void. In a penetrating 10 part series, the Pulitzer Prize winning team of Donald Barlett and James Steele have put a human face on the devastation wrought by our failed trade policy. From our unwillingness to enforce our trade laws to the sorrid spectacle of former U.S. officials lining up to represent foreign interests, Bartlett and Steele correctly identify the root causes of our economic decline.

The strength of Barlett and Steele's piece is epitomized by the vicious attacks that have been leveled at this prize-winning team. Barlett and Steele have drawn fire from the same crowd who have for decades produced the same mindless, conventional wisdom that equates unilateral free trade with economic growth. These are the same people, whose wild assertions about NAFTA and GATT, were utterly false.

During the NAFTA debate the purveyors of conventional wisdom anointed Carlos Salinas as the man of the decade, valiantly reforming the political system and transforming Mexico into a first world economy. NAFTA was supposed to usher in a golden era for U.S. exports to Mexico creating thousands of new high wage jobs. Two years later we have recorded $23.2 billion worth of trade deficits with Mexico. The Mexican economy collapsed into a depression and the man of the year, Carlos Salinas, is living in forced exile while the extent of his administration's corruption is documented in the pages of the New York Times and the Wall Street Journal. NAFTA was supposed to create a North American Free Trade Block to compete against Europe and Asia. Instead, Asian investment has poured into Mexico. A recent article in the Nikkei Weekly, specifically cites Mexico's low wages and NAFTA's duty-free access as the reason why Asian investors are flocking to Mexico.

Mr. President, the same group that attacks Barlett and Steeles' objectivity, never once, during the debate on the GATT, questioned blatantly false assertions made about the efficacy of section 301, or the GATT Rounds' impact on the U.S. economy.

While we were assured that the United States maintained its rights to use section 301, Japan's Minister of Trade and Industry boldly proclaimed that, "the era of bilateralism is over, all disputes will be settled by the WTO."

In the year since the GATT/WTO has taken effect, our trade deficit has continued to soar at a record pace. Trade has become a net drag on the economy, robbing the United States of close to 1 percent of growth as imports consistently out-pace exports. Most pernicious were the claims made by the members of the Alliance for GATT Now. Claims of export booms that would lead to increases in employment. The reality is that 250 companies are responsible for 85 percent of U.S. exports. These same companies have been among the largest downsizers in the American economy. Pink slips rained down on workers at AT&T, IBM, and General Electric. According to an executive vice president at General Electric, "We did a lot of violence to the expectations of the American worker."

How can those who have consistently been wrong about trade now turn around and question Barlett and Steele?

Mr. President, this provocative series in the Philadelphia Inquirer has undermined many of the dubious assertions about trade. Assertions that for decades have been unquestionably accepted.

I urge my colleagues to read this series, and I hope it will stimulate a much needed debate on the most serious issue facing this Nation.

GLOBAL CLIMATE CHANGE

Mr. HELMS. Mr. President, Senator Sam J. Ervin, Jr., the distinguished former Senator from North Carolina, often said that the United States had never lost a war nor won a treaty. Well, during the summer, the Clinton administration quietly set the wheels in motion in Geneva for yet another disastrous treaty for the United States.

During July meetings, Tim Wirth, Undersecretary of State for Global Affairs, committed the United States to the negotiation of a binding legal instrument with the stated goal of reducing global greenhouse gas emissions.

Many experts agree that the premise for this new treaty, which excludes developing countries from enforcing the commitments to reduce emissions, makes its goal simply unachievable. Developing nations such as China will be the largest source of new greenhouse gas emissions in the post 2000 period, yet will be exempt from any new restrictions.

The United States currently is party to the U.N. Convention on Global Climate Change, signed at Rio in 1992 and ratified by the Senate in 1993. Under that treaty the member countries are divided into industrialized countries, termed "Annex I countries," and developing countries, termed "non-Annex I countries," for purposes of determining treaty commitments. The treaty tasks Annex I Parties to reduce greenhouse gas emissions to 1990 levels by the year 2000.

In March 1995, the parties to the U.N. Convention laid the framework for the current negotiations when they met in Berlin, Germany, and agreed to the so-called Berlin mandate. The Berlin mandate states that the parties to the Convention would address this global problem post 2000 without binding any of the non-Annex I parties to new commitments. By agreeing to this disastrous concession—after making assurances to Congress that they would not do so, I might add—the means for addressing the issue as a global problem were removed from the table.

Mr. President, as things often happen, the flawed Berlin mandate became the building block for the latest round of concessions made by Tim Wirth in Geneva. There, parties approved a Ministerial Declaration which—in "U.N. speak"—directs Annex I parties to "instruct their representatives to accelerate negotiations on the text of a legally-binding protocol of another legal instrument." The Declaration directs that the commitments of Annex I parties will include "quantified legally-binding objectives for emission limitations and significant overall reductions within specified timeframes, such as 2005, 2010, 2020."

In plain English this means that any new treaty commitments regarding greenhouse gas emissions will set forth legally binding emission levels that must be met by industrialized countries only. The U.S. position turns basic principles of sound economic policy on its head since it directs industrialized countries to subsidize developing countries by polluting less while incurring higher costs so that developing countries can pollute more without incurring costs.

Some of our allies recognize the serious flaws in the current negotiations.

According to the findings of an Australian Government study entitled "Global Climate Change: Economic Dimensions of a Cooperative International Policy Response Beyond 2000," the treaty will not even achieve the desired environmental effect. The study finds that stabilizing carbon dioxide emissions of developed countries only at 1990 levels during the period from the years 2000 to 2020 "would lead to minimal reductions in global emissions and would have higher costs for most countries than alternative abatement strategies." According to the Australian study, despite the additional costs, there will be no substantial reduction in the growth of global emissions because of the continued growth in the rest of world emissions.

Mr. President, even the elements that would provide some leveling of the playing field are nonexistent in the Ministerial Declaration that was approved by the parties in Geneva. For example, the document makes no reference to Joint Implementation [JI], a practice by which a country's emissions abatement costs can be spread across national borders. Under JI, a nation with relatively high marginal abatement costs can offset costs through involvement with projects in countries with relatively low emissions reduction costs. If countries were truly serious about decreasing the level of global emissions this plan would provide a global solution to the problem and bring economic benefits to the lower cost country in the form of foreign investment. These are clearly not the goals of the parties advancing this doomed policy.

According to a study by the General Accounting Office that I requested, during the period from 1993 to 1995, Federal agencies of the United States have spent almost $700 million on global climate change related spending. This is more than 70 percent of the total spending by the United States to advance major international environmental treaties. Despite the heavy resources being pumped into this Convention by the Clinton administration, Congress has yet to be provided a full economic analysis of the costs of the proposed protocol to the original treaty. Nor has the administration been forthcoming in its own proposals for the new Protocol. Instead, a shell game is being played out in which the substance of the new protocol will be laid on the table in December, after U.S. elections.

During hearings last week in the Senate Energy Committee, the able Senator from Alaska, FRANK MURKOWSKI, raised serious questions about the administration's support of the current negotiations underway at the United Nations, particularly the possibility of a carbon tax. I can assure you that for so long as I am chairman of the Foreign Relations Committee any international legal instrument agreed to by this administration must not and should not put the U.S. economy at a competitive disadvantage to other countries. Most importantly, the treaty should actually achieve the purpose for which it is negotiated. Any treaty that comes before the Senate for ratification must ensure that U.S. businesses will remain competitive and U.S. jobs will be protected.

HONORING THE PETERS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Jack and Irene Peters of Joplin, MO, who on October 12, 1996, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Jack and Irene's commitment to the principles and values of their marriage deserves to be saluted and recognized.

ASYLUM AND SUMMARY EXCLUSION PROVISIONS

Mr. HATCH. Mr. President, I would like to comment briefly on the asylum-related provisions of H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The agreements we reached with the House in the conference report involved a number of compromises on provisions involving the asylum system. I worked very hard in conference to modify the House provisions, and I think we arrived at workable compromises that will be fair in practice.

The conference report's provisions on summary exclusion, also referred to as expedited exclusion, significantly revise the summary exclusion provisions of the Terrorism Act, which apply to those excludable based on document fraud or the absence of documents. The provisions of the Terrorism Act would not have provided adequate protection to asylum claimants, who may arrive in the United States with no documents or with false documents that were needed to exit a country of persecution.

Under the revised provisions, aliens coming into the United States without proper documentation who claim asylum would undergo a screening process to determine if they have a credible fear of persecution. If they do, they will be referred to the usual asylum process. While I supported the Leahy-DeWine amendment that was included in the Senate bill and that passed the Senate 51 to 49, the conference report represents a compromise.

The conference report provisions apply to incoming aliens and to those who entered without inspection, so-called EWI's but have not been present in this country for 2 years. Although the Senate provisions applied only in extraordinary migration situations, House Members felt very strongly about applying these procedures across the board. I think that, with adequate safeguards, the screening procedures can be applied more broadly. If any problems with these provisions arise in their implementation, however, and they do not seem to offer adequate protections, I am willing to consider changes to them.

The credible fear standard applied at the screening stage would be whether, taking into account the alien's credibility, there is a significant possibility that the alien would be eligible for asylum. The Senate bill had provided for a determination of whether the asylum claim was "manifestly unfounded," while the House bill applied a "significant possibility" standard coupled with an inquiry into whether there was a substantial likelihood that the alien's statements were true. The conference report struck a compromise by rejecting the higher standard of credibility included in the House bill. The standard adopted in the conference report is intended to be a low screening standard for admission into the usual full asylum process.

Under the conference report, screening would be done by fully-trained asylum officers supervised by officers who have not only had comparable training but have also had substantial experience adjudicating asylum applications. This should prevent the potential that was in the terrorism bill provisions for erroneous decisions by lower level immigration officials at points of entry. I feel very strongly that the appropriate, fully trained asylum officers conduct the screening in the summary exclusion process.

Under the new procedures, there would be a review of adverse decisions within 7 days by a telephonic, video or in-person hearing before an immigration judge. I believe the immigration judges will provide independent review that will serve as an important though expedited check on the initial decisions of asylum officers.

Finally, under the conference report, there would be judicial review of the process of implementation, which would cover the constitutionality and statutory compliance of regulations and written policy directives and procedures. It was very important to me

that there be judicial review of the implementation of these provisions. Although review should be expedited, the INS and the Department of Justice should not be insulated from review.

With respect to the summary exclusion provisions, let me remind my colleagues that I supported the Leahy-DeWine amendment on the Senate floor, which passed by a vote of 51 to 49. The compromise included in the conference report is exactly that: a compromise. I support the compromise because I believe it will provide adequate protections to legitimate asylum claimants who arrive in the United States. If it does not, let me say that I will remain committed to revisiting this issue to ensure that we continue to provide adequate protection to those fleeing persecution.

I would also like to comment briefly on one of the more significant changes to the full asylum process that are contained in the conference report. The Conference Report includes a 1-year time limit, from the time of entering the United States, on filing applications for asylum. There are exceptions for changed circumstances that materially effect an applicant's eligibility for asylum, and for extraordinary circumstances that relate to the delay in filing the application.

Although I supported the Senate provisions, which had established a 1-year time limit only on defensive claims of asylum and with a good-cause exception, I believe that the way in which the time limit was rewritten in the conference report—with the two exceptions specified—will provide adequate protections to those with legitimate claims of asylum.

In fact, most of the circumstances covered by the Senate's good-cause exception will be covered either by the changed circumstances exception or the extraordinary circumstances exception. The first exception is intended to deal with circumstances that changed after the applicant entered the United States and that are relevant to the applicant's eligibility for asylum. For example, the changed circumstances provision will deal with situations like those in which an alien's home government may have stepped up its persecution of people of the applicant's religious faith or political beliefs, where the applicant may have become aware through reports from home or the news media just how dangerous it would be for the alien to return home, and that sort of situation.

As for the second exception, that relates to bona fide reasons excusing the alien's failure to meet the 1-year deadline. Extraordinary circumstances excusing the delay could include, for instance, physical or mental disability, efforts to seek asylum that were thwarted due to technical defects or errors for which the alien was not responsible, or other extenuating circumstances.

Once again, if the time limit and its exceptions do not provide adequate protection to those with legitimate claims of asylum, I will remain committed to revisiting this issue in a later Congress.

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

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ABUSE IN PRISONS OF THE RELIGIOUS FREEDOM RESTORATION ACT

Mr. REID. Mr. President, in this morning's Washington Post newspaper—and newspapers all over the United States have headlines that are comparable to the headline in the Washington Post—"Ring Used Religion as Cover To Sneak Drugs Into Lorton."

Lorton is a Federal penitentiary in this area. This was on the front page of the Washington Post.

Mr. President, I wish I were not here today to say, "I told you so," but I am here today saying, "I told you so." When the Religious Freedom Restoration Act came up for a vote, I offered an amendment to exclude religion in prisons from the confines of that act. It was a very close vote in this body. It was defeated. People said, "Don't worry about it. It won't cause any problems."

From the day the Religious Freedom Restoration Act passed, it caused problems in prison. This article says a number of interesting things. Among which:

> A drug ring posing as a church group smuggled cocaine and prostitutes into the Lorton Correctional Complex and filmed a pornographic video in the prison chapel, with a law protecting religious freedom to avoid scrutiny by guards . . .
>
> Posing as members of the Moorish Science Temple—

Mr. President, I have nothing to say bad about this religion. It could have been any religion. They happen to be using this religion as a front for their criminal and basically immoral activities.

> Posing as members of the Moorish Science Temple, a religion popular in jails, the group exploited what officials called a gaping loophole in Lorton's security.
>
> Because of a 1993 federal law protecting religious freedom of prisoners, members were allowed to have private visits with inmates at virtually any hour and were subjected to only minimal searches, officials said. The members also routinely intimidated guards by threatening to sue them, they said.
>
> "We had correctional officers who were afraid to do their jobs," said D.C. Corrections Director Margaret A. Moore. . . .
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> * * * * *
>
> "This case is not an indictment of the Moorish Science Temple." . . . "It is an indictment of individuals who exploited a religious exemption to smuggle drugs."

I was very happy that one of the leaders of this religion said, and is quoted in the paper, a man by the name of Harvin-Bey:

> "We don't condone anything like that, and if they are members [of the Moorish Science Temple], then justice should take its course." . . . "It's sad that anyone would misuse any religious organization. That's not what our teachings promote."

Skipping on:

> Federal prosecutors and prison officials said they had suspected for several years that illegal activities were occurring during some religious services. Outsiders seeking to attend religious services in the complex only had to fill out a card, and prison officials did not verify whether they were church members. . . .
>
> In addition . . . such visitors received numerous exemptions from standard security procedures at the District's 6,000-inmate prison complex [located] in southern Fairfax County.

Mr. President, the sad part about it, this was not uncovered by some great work done by the prison itself. There was an inmate who participated in taking pictures of people having sex during the religious service, and he passed these on to the authorities. That is the only way. They had somebody who thought, for what was going on there, that that was a little much.

They would never have uncovered this. They would have continued to let these activities—cocaine.

> Posing as a drug seller in the maximum-security unit, the inmate received drugs brought in by mostly female visitors, many in dresses of the type often worn by Islamic women.
>
> * * * * *
>
> . . . Bell and Cook [these two individuals] allegedly brought in three women to a scheduled religious service in a conference room that was being used as a makeshift chapel. Prison officials earlier had intercepted a phone call between Bell and an inmate making plans to bring in the women. . . .
>
> For about 10 minutes, an inmate using a smuggled video camera recorded sex acts between the women and the inmates. . . .
>
> * * * * *
>
> Moore said prisons nationally are experiencing problems—

Moore is the prison official talking.

> Moore said prisons nationally are experiencing problems with the 1993 Religious Freedom and Restoration Act, saying it limits the ability of prison officials to restrict religious activities among inmates.

I repeat, I did not want to come here and say, "I told you so," but I have to. I come here and say, I warned everyone. I warned the U.S. Senate that this would happen. This is a problem of inmates abusing the special protections provided under the Religious Freedom Restoration Act. The special protection should not be there. Prisons should be exempted.

During the consideration of this bill, I repeat, I offered an amendment to exempt prisoners from coverage of the

act. It failed. I feared then, and I fear even more now, these special protections will be abused, would be abused, have been abused, and will continue to be abused by these inmates. I say regrettably that my amendment was defeated because it is now apparent that inmates are in fact abusing the special rights provided under this act.

I have worked with Senator HATCH, chairman of the Judiciary Committee, and I appreciate his efforts, his good will, in working to solve some of the problems that I see existing. He worked with me very hard earlier in this Congress to pass the Prisoner Litigation Reform Act. That is the one, you will recall, Mr. President, where prisoners were suing over whether they had to eat chunky or smooth peanut butter, or they were suing over how many times they could get their underwear changed or whether they were entitled to wear lady's underwear in a men's prison, some of these very weighty, substantive issues that they were wasting the court's time on. In Nevada, 40 percent of the Federal courts' time is wasted on this senseless litigation. So I appreciate Senator HATCH working with me on that legislation.

But I say that Senator HATCH told me that if there is a problem with this prison litigation, prison abuse with the Religious Freedom Restoration Act, he would work with me. We need some work done on this. We need to stop this foolishness. Why we would allow anything like this to take place—people whose civil rights have been taken from them basically who have committed so many crimes that they are in prison—and we are saying that they have the right to do anything they want regarding religion.

That is indicated in this newspaper article. We are not going to check who comes into the religious services. We are not going to check to see what they bring in. We are not going to check to see who they bring in or check to see what they do when they are having these so-called services. Mr. President, I think today's article in the Washington Post and the one that is appearing all over the country indicates why we need to do more.

I repeat again, to spread all over this RECORD, I appreciate very much what the chairman of the full committee has done to work with me on some of these problems I have. This is an important issue that we need to review as soon as we get back next year. I will pursue this problem. This is a problem the attorney generals all over the United States recognize as a problem—frivolous litigation—and now we have these problems that are raised by the Religious Restoration Freedom Act. We need to do more. I intend to do what I can with the U.S. Attorney General so that she appreciates the growing litigation they face in this area.

She has not been strong on this issue in the past, and I think that is not appropriate. I think she should be the leader in this issue to make the prisons prisons and not places to allow stuff like this to take place. Criminals do not enjoy the same rights and privileges as do law-abiding citizens. But, according to what we see in the papers today, they have more privileges, not less. The sooner we recognize that criminals do not enjoy the same rights and privileges as law-abiding citizens, the better off we will be.

I ask unanimous consent to have the Washington Post article printed in the RECORD.

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

[From the Washington Post]

RING USED RELIGION AS COVER TO SNEAK DRUGS INTO LORTON

(By Charles W. Hall)

A drug ring posing as a church group smuggled cocaine and prostitutes into the Lorton Correctional Complex and filmed a pornographic video in the prison chapel, using a law protecting religious freedom to avoid scrutiny by guards, officials said yesterday as they announced more than 30 arrests.

Posing as members of the Moorish Science Temple, a religion populated in jails and prisons, the group exploited what officials called a gaping loophole in Lorton's security.

Because of a 1993 federal law protecting religious freedom of prisoners, members were allowed to have private visits with inmates at virtually any hour and were subjected to only minimal searches, officials said. The members also routinely intimidated guards by threatening to sue them, they said.

"We had correctional officers who were afraid to do their jobs," said D.C. Corrections Director Margaret A. Moore, who announced several measures to tighten control of prison visits at a news conference in Alexandria.

U.S. Attorney Helen F. Fahey said she hoped the arrests will warn visitors not to smuggle drugs into Lorton. She emphasized that the crackdown was not intended as an attack on any religious group.

"This case is not an indictment of the Moorish Science Temple," Fahey said. "It is an indictment of individuals who exploited a religious exemption to smuggle drugs."

A. Harvin-Bey, grand sheik of Moorish Science Temple No. 74 in the District, condemned those involved in the alleged crimes at Lorton.

"We don't condone anything like that, and if they are members [of the Moorish Science Temple], then justice should take its course," Harvin-Bey said. "It's sad that anyone would misuse any religious organization. That's not what our teachings promote."

Harvin-Bey said the religion has attracted millions of worshipers across the country. There are about 10 temples in the Washington area, he said. The religion, which is open to all races, focuses on the ancestry of American slaves, saying they descended from Moabites who formed the Morrish empire.

A grand jury issued 38 secret indictments Tuesday. About 6 a.m. yesterday, federal agents and local police officers began arresting suspects. By 6 p.m., seven remained at large, said William Megary, acting special agent in charge of the FBI's Washington field office.

Officials said 21 suspects were from the District, eight from Maryland, two from Virginia and seven had unknown addresses.

All of the defendants were charged with cocaine distribution offenses, and two—Nathaniel Pleasant Bell and Karima Cook, both of Baltimore—also were charged with transporting women across state lines for prostitution.

Federal prosecutors and prison officials said they had suspected for several years that illegal activities were occurring during some religious services. Outsiders seeking to attend religious services in the complex had only to fill out a card, and prison officials did not verify whether they were church members, Moore said.

In addition, according to papers filed yesterday in U.S. District Court in Alexandria, such visitors received numerous exemptions from standard security procedures at the District's 6,000 inmate prison complex in southern Fairfax County.

In January, officials said, a cooperative inmate gave investigators vital access to the drug ring.

Posing as a drug seller in the maximum-security unit, the inmate received drugs brought in by mostly female visitors, many in dresses of the type often worn by Islamic women. The drugs were supplied by an undercover officer posing as a drug seller outside the complex.

Because all of the cocaine ultimately was routed to the cooperating inmate, none actually reached the general inmate population, prosecutors said.

On Jan. 23, Bell and Cook allegedly brought in three women to a scheduled religious service in a conference room that was being used as a makeshift chapel. Prison officials earlier had intercepted a phone call between Bell and an inmate making plans to bring in the women, authorities said.

For about 10 minutes, an inmate using a smuggled video camera recorded sex acts between the women and the inmates, according to Timothy J. Shea, an assistant U.S. attorney who helped supervise the investigation. The informant later was able to obtain a copy of the video inside Lorton.

Moore said the prison temporarily will issue no new passes to visitors who say they represent religious groups and will subject all current volunteers to criminal background checks. In addition, she said, guards will be ordered to constantly monitor services through observation windows and periodically walk through rooms where services are taking place.

Moore said prisons nationally are experiencing problems with the 1993 Religious Freedom and Restoration Act, saying it limits the ability of prison officials to restrict religious activities among inmates.

Todd Craig, a U.S. Bureau of Prisons spokesman, said representatives of religions who visit federal prisons already go through criminal background checks and receive extensive training on rules.

Jonathan Smith, executive director of the D.C. Prisoners Legal Services Project, said that he would closely review any restrictions on religious worship but that he probably would not oppose reasonable security measures.

"Religious activities in prisons are one of the most valuable tools available for an inmate's rehabilitation," Smith said. "If they want to search visitors, I probably would not have a problem. If they say there will be no more religious visitors, we would very likely challenge that in court."

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent to rescind the call for the quorum.

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

Mr. DASCHLE. Mr. President, I wish to make a couple of statements this afternoon in regard to our departing colleagues. Let me begin by talking about a fellow South Dakotan.

SENATOR EXON'S RETIREMENT

Mr. DASCHLE. The Senate and the American people will greatly regret the absence of Senator EXON from this Chamber upon his retirement at the end of Congress. I cannot think of anyone in this body who reflects the concerns of America's heartland and the commonsense approach to problems so prevalent in that part of the country better than the senior Senator from Nebraska. I am very pleased to have been able to call him a friend now for a long, long time.

I have always felt a special bond with Senator EXON because he, too, was born and raised in South Dakota. His parents were active in the South Dakota Democratic Party. I do not know if that accounts for his outstanding career in the Senate, but I know it did not hurt.

Senator EXON has given a lifetime of public service. He served in the Army in World War II and afterward became a successful businessman and proud father of three. In the 1970's, he was elected twice as Governor of Nebraska, serving longer than any other person in the State's history. He was elected three times to the U.S. Senate, and through his hard work and dedication, he has earned the affection and the trust of the people of Nebraska who know him best.

Reflecting his rural upbringing, JIM EXON, without a doubt, is one of the most knowledgeable Members of this body on agricultural issues. As a Governor and certainly as a Senator, he has always had his hand on the pulse of rural America. I have turned to him on numerous occasions for advice and counsel, and will not hesitate to pick up the phone in the future on these same issues.

JIM EXON is also well-known for his command of budgetary issues. By the time he came to the Senate, Senator EXON had already established a proven record of fiscal responsibility. As Governor of Nebraska, he balanced that State's books time and again. Therefore, when he assumed his Senate duties and a seat on the Budget Committee, he did not enter the Nation's budget battles unprepared or unarmed.

After observing him closely in my time in the Senate, I can confidently say that Senator EXON stands second to none in his knowledge of the Federal budget and its impact on working Americans everywhere. As Senate Democratic leader, I have repeatedly drawn on his experience and wisdom for guidance in the many fiscal battles that have come to define this Congress.

As ranking member of the Budget Committee, Senator EXON has been my most valuable ally and adviser as we developed a plan to balance the budget without compromising the priorities we stand for. He has never wavered in his commitment to balance the budget fairly.

Most of all, Senator JIM EXON will be remembered as having served the people of Nebraska and all Americans with dignity, diligence, and integrity. As a soldier, Governor, as a Senator and as a friend, he has exemplified all these virtues and many more.

His love for the Senate is exceeded only by his love for his family and the beautiful State of Nebraska, and I might add the not-so-successful team in the last weeks, the Nebraska Cornhuskers. I know that troubled him, and he has lost a great deal of sleep over that during the last week, and I am sure his fortunes will turn.

Both he and I have had the good fortune now to serve in this wonderful body for some time. I can say in all sincerity I will miss him a great deal. I wish Senator JIM EXON, his wife, Pat, and their family the very best in the years ahead.

Mr. President, at times like this you wish you could find other ways with which to express gratitude and friendship and the best of health to those who are retiring. Oftentimes, we wait too long to come to the floor to make these expressions of great affection and admiration for the public servants who come here every day. I could talk at some length about Senator EXON, as I now will about Senator Sam NUNN. They are men from whom I have learned a great deal, men of remarkable decency, men respected on both sides of the aisle, men with a sense of humor and a sense of devotion to country.

FAREWELL TO SENATOR NUNN

Mr. DASCHLE. The day SAM NUNN cast his 10,000th vote, I mentioned that his first vote, on January 23, 1973, was to confirm a nominee to be Assistant Secretary of Defense. Since then, Senator SAM NUNN has become the Senate's leading authority on defense policies. He has served as chairman of the Senate Armed Services Committee from 1987 to 1994. He has introduced or cosponsored the most important legislation and the most important military and defense issues of the last two decades, including Defense reorganization, reducing the threat of nuclear war, Pentagon procurement reform, base closing, and restructuring of military pay and benefits.

He has earned the respect of virtually every colleague with whom he has served—Republican, Democrat, conservative and liberal, Presidents, Vice Presidents, Members of the House. He has earned, also, the thanks of every American throughout this country for his efforts to ensure the integrity and mission of our military establishment in the face of many of history's most significant challenges. Every administration since the 1970's has consulted him on military matters and considered him for top-level positions in their administrations.

Senator NUNN's career has neither been confined to nor consumed by military and defense issues, however. In the Senate, he has played monumental roles in laying the groundwork for national service, deficit reduction, and on efforts to redirect our national economic and tax policies. He has applied his talents and energy to a multitude of issues whenever they were required. I must say that America is better for it.

Mr. President, I congratulate my colleague, my advisor, my friend, Senator SAM NUNN, on his remarkable career, and I thank him for his service to this institution and to this country. Unfortunately, it is also time to say goodbye and wish him well in his future endeavors. We will miss him in the Senate, but I must say that we expect him to be very visible, very active, very involved, very engaged, both in public policy and in matters relating to private enterprise, for many, many years and decades ahead.

I hope that, should he have the opportunity to serve in other capacities in government, he will take them—not for his benefit, but for ours.

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

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

SENATE ETHICS RULES

Mr. MCCONNELL. Mr. President, as everyone knows, we have, over the last year, year and a half, made some adjustments in the ethics rules for the Senate. The Select Committee on Ethics is principally in business to do investigative and disciplinary work, but its work in the area of Member and public education is also a major part of what the committee does, and that is less familiar to most Americans.

The committee's advice and counsel, typically provided to Members, staff and the public affected by the Senate code of conduct, in fact, constitutes a substantial amount of the work that the committee does in giving advice to people who are seeking not to run afoul

of the rules of the Senate. On a regular basis, the committee answers questions and provides guidance on a wide array of subjects, from financial disclosure to the application of gift and travel rules, to conflicts of interest. Much of the advice takes the form of just responses to telephone calls, which are typically received by the committee staff. But, frequently, the committee responds in writing to a specific question raised by a Senator or, for that matter, somebody out in the public who is trying to get advice about how to structure an event. All inquiries, frankly, are welcome and are treated as confidential, in accordance with the committee's rules.

On occasion, a specific question raised with the committee is determined to have general relevance to the entire Senate. Over the years, the committee has published the answers to such questions as interpretative rulings. Between 1977 and 1992, the committee issued more than 440 interpretative rulings, all of which are publicly available.

The committee has also, from time to time, communicated with all Senators in the form of "Dear Colleague" letters on a particular point of the Code of Conduct. The committee did that earlier this year regarding the application of the new gifts rule. The committee has compiled various other documents explaining rules governing proper and appropriate Senate conduct.

The committee staff also conducts regular briefings for staff and orientation sessions when we have new Members coming in at the beginning of each Congress.

The sum and substance of this means that information and education are an important part of the work of the Ethics Committee. In order to facilitate and improve the committee's educational role, we have, today, published the first-ever Senate Ethics Manual. I regret that it is as thick as it is, but the Senate, over the last 10, 15 years has been increasingly made more complex in the rules by which we must live our lives, so we have had the staff work, over the last year, trying to develop a manual which, candidly, Mr. President, is not going to answer every question, but may help in providing a sort of quick, ready reference for Members of the Senate in trying to determine how to handle a matter that might raise some ethical question. Again, I apologize for the thickness of it, but I think it illustrates how many new rules we have adopted for ourselves and how much interpretation is needed in order to discover what to do under the new rules. So this will be made available to every Member of the Senate. I suggest that, for whoever in the office becomes sort of the office expert on matters of this sort, this be on their desk and, hopefully, that person will be able to be of some assistance to the Senator in the coming years in answering questions.

The manual is comprehensive. It covers gifts, conflicts of interest, outside income, office account, financial disclosure, political activity, the frank, Senate facilities, constituent service, and employment practices. It explains the rules and incorporates the interpretations that we have developed over the years. In addition, it contains many illustrations of situations that have occurred, or could occur, and sets forth the standard for appropriate conduct.

I am confident that every Senator will incorporate this manual in his or her important office documents. As I have suggested earlier, it will probably end up occupying a significant spot in the office of every Senator. I think it is not likely to eliminate the need to call the Ethics Committee for advice, although it may make those phone calls less frequent.

The committee staff worked long and hard on this manual, and they deserve the appreciation of the Senate and the American people. In particular, Victor Baird, Linda Chapman, Elizabeth Ryan, Adam Bramwell, Marie Mullis, and Annette Gillis toiled long hours over the last several months to bring this project to fruition. They have turned out, in my view, a very fine product.

As I indicated earlier, one copy of this manual will be made available to each Senator. In fact, this afternoon, one copy will be delivered to each office. I am not going to ask that it be printed in the CONGRESSIONAL RECORD, as it is quite thick, but I ask unanimous consent that the manual be printed as a Senate document.

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

Mr. McCONNELL. Then there will be sufficient copies available to committees and subcommittees as well as the general public.

So, Mr. President, I hope that this ethics manual will be useful to Members of the Senate and to others who will need to become at least generally familiar with the rules of the Senate.

Again, I thank the staff of the Ethics Committee for an outstanding piece of work. It was really quite a difficult project. I thank them on behalf of all Members of the Senate.

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

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with the time between now and 2:30 p.m. open for statements limited to 5 minutes each; I further ask that the time between 2:30 p.m. and 3:30 p.m. be under the control of the Democratic leader or his designee and the time between 3:30 p.m. and 4:30 p.m. be under the control of the Republican leader or his designee.

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

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

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

COLORADO ENVIRONMENTAL PROJECTS

Mr. BROWN. Mr. President, I was shocked and saddened today to learn of the President's threat to eliminate or veto the parks bill that included a number of projects.

I was particularly disheartened over the decision to kill four Colorado environmental projects—surprised because, on a number of these, the administration has specifically reviewed them and signed off on them; that is, we had taken the trouble and the time to walk them through, to seek their advice, to incorporate their suggestions, and to work with them for something that could meet the President's guidelines.

Thus, after doing that—and having secured, at least in many of those projects, the administration's input and approval—we are now faced with a political hit list with regard to Colorado projects. I think it is particularly surprising when you look at where that hit list focuses. It focuses primarily in States where the President has had a difficult time in winning good reelect numbers—Alaska, Colorado, and Virginia are the heaviest hit on that hit list.

Mr. President, the projects in Colorado are bipartisan projects. They are ones that are of enormous benefit to the environment and the State. I hope that the President will reconsider.

This is raw politics to punish those who will not go along with the President's bid for reelection. And it is vindictive politics. It is beneath the Office of the President to engage in this kind of vindictive hit list based not on a rational review of the issues or reasonable discussions of the problems, but simply sending a cold power play to punish those States where the President's ratings are not high enough.

I called the White House this morning because I was concerned about these projects and about one project in

particular which, I think, particularly saddens me, and asked why these projects were being eliminated. They were not able to give me an answer. The woman who was kind enough to chat with me did speculate with regard to one of them, and speculated that maybe they were concerned about it being a heritage area. And, of course, the major one involved the Cache La Poudre River bill which is not a heritage area. We specifically changed that aspect because Members of the House and others had concerns about heritage areas.

Mr. President, I want to talk for a moment about a project that we worked for more than 20 years on which is included in that Cache La Poudre area bill. The Cache La Poudre River is a river that was named by the French, obviously, in the pioneer days. It is a river that has provided the flow of communications, water, transportation, and a lifeline throughout eastern Colorado. It starts in the high mountains in northern Colorado, in those high mountain regions, and it flows down toward the plains. It is now Colorado's only wild and scenic river. I offered that as a Member the House of Representatives.

Peter Dominick did a study perhaps three decades ago on wild and scenic rivers in the State. And it was a great pleasure for me to see the passage of that wild and scenic designation. While Peter Dominick has long passed away, his sons came to that signing ceremony. It was, I think, a token of something very important because it is an effort to preserve part of our national heritage.

The La Poudre bill the President now wants to veto is one that takes that area of the river as it passes through Fort Collins and extends out on the plains. The suggestion is very simple. Let us see if there is some way to set aside the floodplain of the river as it passes through the city of Fort Collins and Greeley and by the city of Windsor on its way. It is an area of rapid growth. It is in the middle of a great urban area stretching from Denver, or perhaps even Colorado Springs, all the way up to Cheyenne, WY.

What a wonderful thing to have set aside open space of a floodplain area for riding and bike paths and hiking paths and recreation facilities in the heart and the middle of a great metropolitan area.

Mr. President, as you well know, many in our part of the world are not so sure they want the heritage broke, and it is controversial. But the saddest thing of all would be to see it grow and for us not to prepare for it, plan for it, and set aside the open space that will keep some of the quality of life that has attracted so many to that part of the world.

That is really what this bill is all about. It does it without a cost to the U.S. Treasury.

It does it by saying if there is surplus land in the State that is federally owned, this bill allows the exchange of surplus land in other parts of Colorado for part of the flood plain of the Cache La Poudre. It will not have a net impact on the Treasury, but what it will do is gradually see land that is held by the Federal Government in areas where it is not needed exchanged for land in the flood plain of the Cache La Poudre River. It promises, I believe, over a lengthy period of time to give us a substantial amount of open space that will be preserved throughout the Republic to the lasting benefit of the community.

Frankly, I think it is a question that needs to be addressed in the Western United States itself. The West is blessed with a large amount of public land held by the Federal Government, but I do not think anyone, liberal or conservative, Democrat or Republican, would question the fact that sometimes that land is not held in the location where most would prefer it. Most of our land ends up being where settlers did not homestead it or where miners did not stake a claim. However, it is not the only basis that you ought to use for land allocation and ownership.

What this bill does is give us a chance to shift the ownership of the public land away from areas where it is not needed to areas where it clearly will be needed.

I cannot help but think that this measure has enormous environmental pluses in it, and I find myself dumbfounded that the President would choose to veto it. My hope is that the administration will be willing to sit down with us, let us know their concerns, and work things out if that is the case. But, also, I must say I am not willing to roll over on this. I am not willing to ignore good legislation. My suggestion is that if the President wants to work with Congress, he has to be willing to step forward and enunciate his concerns. Right now we are in a circumstance where the President has put these projects on a hit list without even being willing to name or articulate what his concerns are.

My belief is and always has been that good legislation is a product of thoughtful review and good communication between those involved not only at the legislative level but those outside of this body. I hope the President will reconsider his actions. Once before a President of the United States came up with a hit list for the Western United States. President Carter took vengeance out on the Western United States with his hit list. My hope is that President Clinton will not repeat that mistake.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the Chair for recognizing me.

ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT AGREEMENT

Mr. BREAUX. Mr. President, I take the floor to make a couple of comments about my extreme disappointment over the obvious fact that now this Congress will not be able to take up an agreement that has been worked on and negotiated for over 7 years that has now been completed but that will not be considered by our Congress through the ratification process.

The agreement that I speak to is the so-called OECD agreement, which is the Organization for Economic Cooperation and Development, which has brought together the shipbuilding countries of the world, and after 7 years and two administrations negotiating this agreement and having the other nations of the world that build ships sign on the dotted line saying that this agreement is right for this time, unfortunately, this Congress, and this Senate in particular, will not be in a position to even bring it up for ratification.

The bottom line is that this agreement, which has been negotiated for so long, has as its major purpose the ending of shipbuilding subsidies by the other countries of the world.

In my time in the Congress, I have heard from people who work in shipyards, people who own shipyards, people who have shipyards in their districts and in their States, that if we could only end the other countries' subsidies to their yards, government subsidies, we in the United States could not only compete with these other foreign shipyards but we could do much better than they are doing.

This agreement, I say to my colleagues and to all, does exactly that. After 7 years of negotiation under the leadership of the Clinton administration and Bush administration, both of which have said this is a priority, and this agreement has now been completed and signed, we at this last hour refuse to take it up because there are some in our country who have said it is not perfect so, if it is not perfect, we will not participate. The losers of this battle are the people who asked us to enter into these negotiations in the first place, the shipbuilding industry. It is unfortunate that now there is such a division among the industry that we in the Congress are not able to do something which helps everybody in a major way.

I am committed to continue our efforts in the next Congress. I am fearful, however, that other countries will see the U.S. lack of ratification of this international agreement to mean that they will then be able to engage in their own subsidy wars once again, and

that will be most unfortunate because, if there is anything which is clear, it is that this country cannot participate and cannot win an international subsidy battle with other countries willing to heavily subsidize their shipbuilding industries as a matter of national policy.

We have no subsidies directly provided by our Government to our shipbuilding industry. That program, the construction subsidy differential program, was ended in the administration of President Ronald Reagan. He said we are not going to do that any more. Congress agreed, and there is no longer any shipbuilding subsidies in place for our yards in this country, but all the other countries that are major shipbuilders still have subsidy programs.

This international agreement got them all to sit down at the table after 7 years and say, all right, if everybody agrees they are not going to do it, we are not going to do it either.

That agreement is a win-win for the United States. Failure to ratify and approve that treaty is a lose-lose for the United States industry and the thousands and thousands of men and women who work in those industries, because if we do not enact this agreement and other countries continue to subsidize their yards, we will continue to lose business. We will continue to build only militarily useful vessels in this country and commercial shipbuilding will continue to go overseas to yards that are consistently subsidized by their governments, because in many of these countries shipbuilding is their biggest industry. It is not in our country, and therefore we do not subsidize it. This agreement would have put other countries on a level playing field with us.

I am struck by the fact that at the last minute, when some of our industry people came in and said, well, we do not like this agreement because of this, that and the other, my staff, USTR people, many Members of the Senate and in the House sat down and said, all right, we will try to get what we can to fix it to address your concerns. Those who opposed the treaty said, well, they needed explicit clarification that the United States would not under any circumstances change our Jones Act, and we did that and clarified that in the treaty, that that would be exactly the way they asked for it.

They said that they need explicit clarification that our national security interests would be protected by this treaty, and that the defense features and military reserve vessels would be outside of the agreement. And we put that into this treaty to be ratified.

They said they needed 30 additional months of the current title 11 financing program for our shipbuilders to cover projects that were close to having their applications in. And we did that.

They said they needed clarification that the limited restructuring subsidies for some countries, which were allowed under the agreement to four countries in order to reduce their shipbuilding capacity, would be actionable if they, in fact, increased their capacity instead of reduced their capacity. And we did that.

It is unfortunate that, in the end, some would agree only on a perfect agreement. If anyone has been here longer than 2 weeks, he or she knows there are no such things as perfect bills, perfect legislation, or perfect treaties—or perfect anything. We are humans who try to do the best we can. Perfection is not something that we, oftentimes, are able to achieve.

So, while this agreement may not have been perfect, we answered in each instance the opposition of those who continue to oppose this treaty. They, in my opinion, will be the ones who will ultimately suffer the most by their stopping this Congress from bringing forth this agreement for ratification.

I know there are a lot of people who worked very hard. I commend Congressman SAM GIBBONS, from the other body, who really tried to bring his people together on this issue. Senator BILL ROTH, the distinguished chairman of the Senate Finance Committee, worked very hard with his staff to say, yes, let us meet to try to bring this together. Our Democratic leader, TOM DASCHLE, tried to urge people to sit and negotiate. And also, particularly, Senator TRENT LOTT, the majority leader, who hosted meetings with the differing parties to try to bring people closer together, to say, yes, we should get this agreement in a posture to which everyone could agree.

I will conclude, Mr. President. We have been ravaged, ravaged by the subsidy practices of other countries in the shipbuilding industries. This agreement that two different administrations hammered out and negotiated over a 7-year period was an effort to end those subsidy practices of those other countries so the United States, which does not have a direct subsidy program, would be able to compete with our competitors from around the world on a level playing field.

Unfortunately, in the absence of this agreement being ratified by this body, we as a country have a signature on a piece of paper which is meaningless because we in the Senate could not bring the parties together to see the benefits of this agreement. It is a most unfortunate set of circumstances. It is unfortunate because there will be thousands of men and women who work in these yards every day who will be disadvantaged and who will be less competitive, not because they have less skills or are less productive, but because they are unable to compete with other governments.

Our workers and our industry and our engineers and our technicians can compete with any other engineer or any other technician or any other worker anywhere in the world. But our workers cannot compete with other governments who are not concerned about making a profit. We cannot compete under those terms with another government that so highly subsidizes those industries in those nations.

It is clear, at a time when we are talking about reducing Medicaid benefits, reducing welfare benefits, reducing benefits in Medicare, that we are certainly not going to start subsidizing our shipbuilding industries in the opposite direction.

So I am extremely disappointed, but, as always, I try to always be optimistic. There will be those in the next Congress who will realize this was a tragic mistake. I say to the other countries around the world that they, too, should look upon this effort, not as a final failure on the part of the United States, but rather only a pause in the legislative process, and, in the next Congress, hopefully we will get back on track and get our industries together to allow this Congress, and particularly this body, to approve what I think is a good treaty.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE U.S. ECONOMY—ON THE RIGHT TRACK

Mr. CONRAD. Mr. President, yesterday we received more good news on the performance of the U.S. economy. Yesterday, the Census Bureau reported outstanding news with respect to increases in personal income and reductions in the levels of poverty in our country. I believe a significant part of the reason for the excellent economic performance is the Clinton economic plan that was passed in 1993. I believe that plan has contributed by reducing the deficit, reducing the deficit 4 years in a row. That took pressure off interest rates, and that fueled an economic resurgence in this country.

I think when we evaluate the performance of the last three Presidents on the question of deficit reduction, the record is remarkably clear.

Back in 1981, President Reagan came into office and inherited a deficit of $79 billion. The deficit promptly skyrocketed under the theory of supply-side economics—the notion that we could dramatically cut taxes while increasing defense spending and somehow it would all add up.

Unfortunately, it did not add up. In fact, the deficit exploded. The deficit

went up to over $200 billion a year and stayed at that level through much of the Reagan administration, although there was some improvement in the final years of that administration.

Then we saw President Bush come into office. He inherited a deficit of about $153 billion, and then the deficit truly went out of control. Each and every year the deficit rose, until in the final year of the Bush administration, we had a budget deficit of $290 billion. That was the budget deficit.

Perhaps it would be helpful to explain the difference between deficits and debt, because I often find that people are confused by the two. Deficits are the annual difference between what we raise in revenue and what we spend. It is the annual difference. Debt, of course, is the accumulation of all of the deficits.

Under President Clinton, unlike President Bush where the deficit went up every year, in the Clinton years, the deficit has declined each and every year. In fact, we went from a unified deficit of $290 billion——

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield.

Mr. REID. It is true, is it not, I say to the Senator from North Dakota, that 4 years in a row of declining deficits, the last time that happened was in the 1840's—that is 1840's—prior to the Civil War; is that true?

Mr. CONRAD. That is correct. The first time that we have seen the deficit decline 4 years in a row under one President was back in the 1840's.

Mr. REID. I also ask the Senator from North Dakota, in looking at the chart as I came into the Chamber, it appears to me that the deficit is only one-third of what it was at the height of the Reagan deficits.

Mr. CONRAD. If you measure the deficit against the size of our national income, which is probably the best measure of the deficit, that is true. In fact, the deficit measured against the size of the economy is the lowest it has been since 1974. In fact, we now have the lowest deficit of any of the major industrialized countries in the world. Again, I think that is the central reason we have seen this economic resurgence.

Mr. REID. Can I ask one final question? And that is, I think the Senator from North Dakota would agree that even though the last 4 years have been remarkable in driving down the annual deficit, I think we would all acknowledge we are working toward a zero deficit; is that true?

Mr. CONRAD. I think that is the goal that many of us share. I hope that would be what we could accomplish, to have a balanced budget in this country. It is critically important that we do that, because we face the demographic time bomb of the baby-boom generation. In very short order, the retirement of the baby boomers is going to double the number of people eligible for our major programs, from 24 billion to 48 billion. That is why we have to keep the pressure on to keep the deficit down.

I will conclude the point with respect to the Clinton administration's performance. In 1992 President Clinton promised he would cut the deficit in half. He has done much better than that. In fact, the deficit is down about 60 percent during the Clinton years.

Interestingly enough, the Federal Reserve Chairman, not known as a strong supporter of the Clinton administration—in fact, originally appointed by a Republican President—said that the deficit reduction in President Clinton's 1993 economic plan was "an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter."

This is the Chairman of the Federal Reserve in February of this year indicating that the Clinton plan was the central reason we have seen that dramatic improvement in the deficit during the Clinton years.

Not only do we see an outstanding story with respect to deficit reduction, this chart shows what has happened to real business fixed investment in billions of 1992 dollars. This chart goes back to 1985. You can see, ever since Bill Clinton has been in office, we have seen a dramatic improvement in business fixed investment. In fact, this is the best record for increases in business investment for any President since World War II.

The good news doesn't stop there, because we also see the misery index at its lowest level since 1968. The misery index is a combined measure of the unemployment rate and the level of inflation. The misery index is now at the lowest level it has been in 28 years.

Again, the good news doesn't stop there. We remember when President Clinton was seeking the office of President. He said that he would have as a goal the creation of 8 million jobs in the first 4 years of his administration. He has exceeded that. He has delivered on his promise. We have more than 10 million new jobs. In fact, we have now reached 10.5 million new jobs.

And unemployment is down, down sharply, under President Clinton. In December of 1992, the level of unemployment in this country was 7.3 percent. This chart shows in June of 1996, it was down to 5.3 percent. It has gotten even better since then. The level of unemployment was down to 5.1 percent in August 1996.

We have also experienced strong economic growth under President Clinton. In fact, this chart compares private-sector growth under President Clinton as compared to President Bush. Under President Bush, the private sector grew at a rate of 1.3 percent during his 4 years. Under President Clinton, this chart shows 3.1 percent. With the latest update, private-sector growth in this country is up to 3.2 percent during the Clinton years. In fact, this is the highest rate of growth of any of the last three Presidents—private sector economic growth, the best of any of the last three Presidents.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. Mr. President, I will be happy to yield.

Mr. REID. You have talked about the private growth in our economy. Will the Senator agree that we have a smaller Federal work force now than we had during the years of President John F. Kennedy? Federal jobs have been cut back significantly; is that not true?

Mr. CONRAD. It is true. The Federal work force is at its smallest level since the 1960's, during the administration of President Kennedy. I might also point out, and I think this is interesting, that Federal spending—this President is accused of being a big spender—Federal spending measured against our national income has gone down each and every year of the Clinton administration. Interesting.

During the Bush administration, Federal spending went up. Under President Clinton, Federal spending has declined each and every year as measured against our national income.

I might just conclude that yesterday we got more good news. We got the Census Bureau report showing that incomes are going up; poverty is coming down. Median household income showed its largest increase in a decade. We had the largest decline in income inequality in 27 years. We saw the biggest drop in poverty in 27 years; 1.6 million fewer people in poverty. We saw the poverty rate for the elderly drop to its lowest rate ever, lowest rate ever for elderly poverty, and the biggest drop in child poverty in 20 years.

It seems to me that part of any Presidential campaign ought to be the record. The record, with respect to the economy, of this administration is crystal clear: The deficit is down, unemployment is down, poverty is down, incomes are up, jobs are up, business investment is up. That is an outstanding record. I hope people will have a chance to learn this record between now and the election. I think if they do, this President will be reelected with a resounding vote. I am happy to yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me yield myself such time as I may consume of the hour that has been set aside.

Mr. REID. Would the Senator from North Dakota, prior to the senior Senator from North Dakota leaving the floor, allow me to just ask a couple

questions of the senior Senator from North Dakota?

Mr. DORGAN. I would be happy to.

Mr. REID. I say to my friend, the senior Senator from North Dakota, that you have made an interesting and I think a compelling case how things have improved during the past 4 years, from lower Federal employment, to higher private-sector employment, millions of new jobs, 10 million new jobs created, the lowest poverty levels in 27 years. You have gone through that, and I think made, as I indicated, a compelling case.

But I would like to ask the Senator a question. Do you realize in the State of Nevada—this is not on the overall economy of this country—but in the State of Nevada, which is a State sparsely populated but growing, the most rapidly growing State in the Union, do you realize that the unemployment rate in Nevada has declined from almost 7.5 percent when President Clinton took office now to about 5 percent? Were you aware of that?

Mr. CONRAD. I was not aware of that. But I was aware of national figures that showed the unemployment rate declining from 7.3 percent nationally to 5.1 percent today, the lowest level of unemployment we have had in this country in 7 years. I think that is another indicator that the Clinton economic plan, which passed in this Chamber by a single vote, is a plan that is clearly working.

Mr. REID. I would also ask the Senator—in fact, you have made an interesting and, again, a very dynamic case for what has happened with private-sector growth during these last 4 years nationally. But let me ask you if you know that in Nevada, there are 2½ times as many new private-sector jobs per year than during the previous 4 years? That is a tremendous increase.

Mr. CONRAD. That is a remarkable accomplishment. I think any objective observer who looks at the economic indicators can only conclude that this economic plan has been remarkable in its success. In fact, last year, for the first time in many years, the United States was judged to be the most competitive economy in the world. That designation has been given to the United States again this year. It is the first time in a very long time we saw the United States replace Japan as the most competitive nation in the world. So again, I think the evidence is clear and powerful and compelling that this President's economic plan is working and working well.

Mr. REID. I will just ask one last question before the floor is taken by the junior Senator from North Dakota. In Nevada, we have had new business incorporations increase by 14 percent—that is big for any State—but 14 percent during the 4-year period of time. This is in the State of Nevada, not nationally, but the State of Nevada.

Mr. CONRAD. Again, it follows the trend we are seeing nationally. President Clinton has the best record in terms of an increase in business investment, the rate of increase, of any President since World War II. You see the stock market at an all-time high. Virtually every indicator shows clearly that this economic plan has been a tremendous success.

I might just say that when we passed that plan, we took a lot of heat for it. I remember our friends across the aisle said that this plan would crater the economy. They said that if we passed this plan, it would increase unemployment, it would reduce economic growth, it would increase the deficit. They were wrong. They were wrong on every single count. The fact is, those of us who voted for that plan, it was controversial and we took a lot of political heat for passing it, that plan has proved itself and proved itself remarkably well.

Mr. DORGAN. Mr. President, on the last point, the Senator talks about what the reaction was to the plan in 1993 that required some amount of fortitude to vote for because it was not popular. The political thing would have been to vote "no." And half this Chamber did. It passed by one vote. Speaker GINGRICH said at the time, "This will lead to a recession," August 6. "Pass this, it will lead to a recession." What has happened? Well, the deficit is down, unemployment is down, inflation is down, jobs are up, economic growth is up.

I will just discuss a bit some of the things that you have talked about. I thought I would just tell a story, if I might, that happened to a friend of mine the other day that describes context. You always have to put things in context, because what happens in politics is, someone comes to the floor of the Senate—and it has been done a lot lately—and they will take one little piece that you are able to find, and they will hold it up to the light and say, "Look at this. Isn't this ugly? Isn't this awful? Look at this awful bad news." That is the way this system works.

Of course, bad news travels faster than good news. The old saying: "Bad news travels halfway around the world before good news gets its shoes on." So people do this. Let me talk about context.

A friend of mine has a precocious 3-year-old. She went to the video store, because they were going to be home for the weekend and they thought they would get a couple movies. They went to the video store and bought a little cartoon for the 3-year-old to watch and then a couple of movies for her and her husband to watch for the weekend.

She told me this story. After they went to the video store and got these three movies, they stopped at the grocery store, and this precocious 3-year-old of hers, as they are walking past the checkout counter in the grocery store, the little boy said, "Well, Mommy got us some movies for the weekend." The cashier said, "Really?" He said, "Yes. She got a cartoon movie for me and two adult movies for them." What happened is the little boy was explaining on the way to the grocery store, "Gee, I get to watch three movies," and the mother said, "No. We bought one for you, and the other ones are for myself and your father." "Why can't I watch them?" "They are for adults." Then he tells the cashier, "Mommy got two adult movies." Well, he was technically accurate, but contextually, in the context of this discussion she told me, she was trying to look for a cash register to crawl under.

That is what happens with respect to all of this discussion. It loses context when you take just a part of it and hold it up.

The Senator from North Dakota and the Senator from Nevada talked about where we are and where we are heading. The question is, it seems to me, not so much in isolation but in the context of the broader economic question, are we headed in the right direction or are we headed in the wrong direction? Are we moving forward or are we moving backward?

Let us just not listen to Senator CONRAD. He wears a blue suit, serves in the Senate, and talks, and Senator REID wears a blue suit and serves in the Senate and talks, and I am talking. So people say, "Well, you're politicians on the floor of the Senate. All you do is talk about these things." Let us not listen to us.

Let us listen to money magazine. Here is what they say:

> The majority of Americans are better off on most pocketbook issues after 3½ years under [President] Clinton, who's presided over the kind of economic progress any Republican President would be proud to post.

Barron's:

> In short, Clinton's economic record is remarkable. . . . Clinton also rightfully boasted that, "our economy is the healthiest that it has been in 30 years."

Business Week:

> [I]nflation is low, growth is good, and the dollar is strengthening. America is in its best economic shape in 20 years.

Reuters:

> Clinton has run up an enviable record in the past 4 years, cutting the budget deficit each year, and making good on a campaign promise to cut the deficit in half.

That is not us. Money magazine, Barron's, Reuters, Business Week are telling this story. It is the story that Senator CONRAD just told with charts—steady economic growth, deficits down, way down, and inflation down, way down, 5 years in a row, unemployment down to 5.1 percent. This is a remarkable economic story.

Are things perfect in our country? No. Are we finally heading in the right

direction? Are we seeing higher deficits? No, we are seeing much lower deficits. Are we seeing unemployment grow? No, we are seeing unemployment diminish, more people are working. That is movement in the right direction.

This economic news in our country is news that most of us ought to view as remarkable news, that ought to be a source of strength to the American people.

Senator CONRAD just touched in the last part of his presentation on some things that just came out yesterday, and we were at a meeting with the President last evening, in fact, a meeting with the President yesterday at noon, the three of us were there, and then a gathering with the President last evening again where he talked about the new Census Bureau information.

I would like to share it with people because it is important. Typical household income up $898 in 1995, the largest increase in a decade. Typical African American family's income is up $3,000 since 1992. The median income of African-American families has increased from $22,900 to $25,900, the largest decline in income inequality in 27 years. We have had a problem with income inequality, the poor getter poorer and the rich getting richer, the largest decline in that inequality in 27 years. The number of people in poverty fell by 1.6 million, the largest drop in 27 years. The poverty rolls are not growing, they are shrinking. The poverty rate fell to 13.8 percent, the biggest drop in over a decade. The African-American poverty rate dropped to its lowest level in history. The elderly poverty rate dropped to 10.5 percent, the lowest level ever. The biggest drop in children living in poverty in 20 years. The largest drop in poverty rate of female-headed households in 30 years. This is from the census data about what is happening in the American economy.

The point I want to conclude with is that we put this country on course with a plan that was not popular and we paid a price for that. I understand that. It was not popular at the time. It turns out to have put this country on solid footing to move toward greater economic strength, more jobs, more economic growth, less unemployment, less inflation. It was the right thing to do and America is heading in the right direction.

While there might be some who are complainers in America, we have a designated corps of complainers in our country who never want to do anything for the first time, have never found anything they are pleased about. They might want to find small areas where they would say, "Gee, this is not right. This is not working." While they have complained it will not work and it is not right, we have set it right and are making it work and are moving this country in the right direction. That is the story of the economic numbers.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

Mr. REID. There are two Senators from North Dakota on the floor and they, of course, attended the meeting yesterday where the President came and talked to us. There was no press, not a single press person in the room, and I listened very closely as did my colleagues.

The thing I will never forget, I am confident I am not telling tales out of school, is when the President showed us this, he said, "Last night, late at the White House, I was given this, and I sat there alone looking at one page and almost cried," because he has also, as you recall, gone through literal hell, people criticizing his economic plan. The President of the United States, alone in the White House, said when he saw this he became so emotional he almost cried because this is good news.

Would the Senator agree this is good news? This is the glass being half full, not half empty. We all recognize, as I indicated to the Senator from North Dakota earlier in this discussion, we can do better. We can do better. But the glass is half full. It is not half empty.

The American people deserve to hear this good news. Would the Senator agree?

Mr. DORGAN. I absolutely agree. As I said earlier, good news does not travel very far, very well, or very quickly. There is an industry that is interested in seizing and entertaining people on bad news. Part of that industry is in American politics, because they understand that negatives far more easily motivate people than do positives. I understand even though today we could have people come to the floor and hold up a bunch of negatives and say, "Is this not awful," we do not have a situation that is perfect in this country. Circumstances exist where the American people govern this country in a representative government. We make decisions, at times, decisions that the American people probably do not want us to make, but we do it in what we think is in the best interests of this country.

This President is a mortal President. I like him. I vote with him when I think he is right. Yesterday I voted against him. I thought he was wrong on something. He is not a perfect President. None of us is perfect. This President has attempted to be a leader. When he took office in 1993 he proposed a plan that says this is a tough plan, and it is tough medicine, but let us, together, try and eliminate this Federal budget deficit. I would like you to vote for a plan that does it. Part of the medicine will be, yes, some increases in taxes, although most of the tax increases went to the very highest income people in this country, and especially some spending cuts in areas where we were spending too much money, and it was a package that we voted for, and I was pleased to vote for it. It was the right thing to do. We did not get even one vote from that side of the aisle. You would expect somebody to make a mistake occasionally and vote wrong. Not one would vote with us. We won by one vote, one single vote in the House and the Senate.

We put in place an economic plan that was the right thing to do. The result? More employment, less unemployment; more economic growth, lower inflation and lower deficits. That is a country that is moving in the right direction.

I am happy to yield the floor and allow the Senator from Nevada to take some time at this point.

Mr. REID. Mr. President, I want to spend a little bit of time reviewing the good news that we received yesterday. The good news, I repeat, typical household income went up last year almost $900. In 1995, the median household income increased 2.7 percent. This is tremendous. It is now up to $34,076, the largest 1-year increase since 1986. Typical family income is up over $1,600 since the President's economic plan has passed. Median family income has increased, up to over $40,000 a year in 1995. That is an increase of over $1,600, as I indicated, since his plan passed in 1993, when the Vice President of the United States had to come in and cast the deciding vote because it was on a 50–50 tie with Senators.

Under President Bill Clinton, the typical Afro-American family in America's income is up over $3,000. The median income is up to almost $26,000. This is a $3,047 increase compared to when President Clinton took office.

Mr. President, 27 years—we have had the largest decline in income inequality in 27 years. In 1995, household income inequality fell as every income group from the most well off to the poorest experienced a real increase in their income for the second straight year. One measure of inequality, something called the Gini coefficient, which is something economists use but is deemed to be the most reliable judge of inequality, dropped more in 1995 than any year since 1968.

People in poverty. Mr. President, enough people are off poverty to fill the States of North Dakota and the State of Wyoming and then have people left over—1.6 million people are off poverty. This is significant. This is even though the population is growing. We are still maintaining this drop. It is the largest 1-year decline since 1968.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield to the Senator.

Mr. DORGAN. That would be the equivalent of five Wyoming's, as I calculate?

Mr. REID. Mr. President, 1.6 million—I think Wyoming is about 600,000, so it is about 2½ to 3½ Wyomings.

Mr. DORGAN. I thought Wyoming had a smaller population than that, but it is sufficient to say you could take a number of the States in the northern Great Plains that are not heavily populated and you can compare the kind of progress we have made in a number of these areas by referring to those States.

It is remarkable when you take a look at income data provided by the Census Bureau, no one would have predicted this kind of economy would produce that in this 3½-year period.

Mr. REID. I say to my friend, the reason I mention States is these are real human beings, real people that go to work every day, hopefully, if that is possible, if they have a job. But these people get up every morning and go to bed every night—real human beings, 1.6 million of them are off poverty. That says a lot, I think.

The poverty rate fell to 13.8 percent, the biggest drop in over a decade. In 1995, the poverty rate dropped from 14.5 percent to 13.8 percent. That is the largest 1-year fall in the poverty rate since 1984. Since President Bill Clinton's economic plan was signed into law, the poverty rate declined from 15.1 percent to 13.8 percent, the biggest 2-year drop in the poverty rate in 23 years.

The Afro-American poverty rate dropped to its lowest level in history. I repeat: The Afro-American poverty rate dropped to its lowest level in history. In 1995, the rate declined from 30.6 percent to 29.3 percent. That is the first time it dropped below 30 percent and is the lowest level since data was first collected in 1959.

The elderly poverty rate dropped to its lowest figure ever —ever—to 10.5 percent. Of people over the age of 65, only 10.5 of them are in poverty. That is tremendous. By far, that is the best of any country in the world. In 1966, 28.5 percent of American elderly lived in poverty. That was before Medicare came into being. Medicare has kept a lot of people off the poverty rolls. In 1995, the elderly poverty rate declined to 10.5 percent. That is a new record low for elderly poverty—ever—not in the last decade or two, but ever. Not only do we have seniors poverty rate declining, but child poverty has dropped to its lowest level in 20 years, also. So seniors and children are doing better. We are doing better by them.

Mr. CONRAD. Will the Senator yield for a question?

Mr. REID. I am happy to.

Mr. CONRAD. You mentioned that the poverty rate for the elderly was at a level of 28 percent, or more than 28 percent in 1966.

Mr. REID. Almost 29 percent.

Mr. CONRAD. Almost 29 percent was the rate of poverty for the elderly; 29 percent of the elderly lived in poverty as recently as 1966. What did it drop to?

Mr. REID. It dropped to 10.5 percent.

Mr. CONRAD. To 10.5 percent. You know, sometimes we say, well, the Government doesn't do anything that has much value. But here is a case where the portion of our elderly population that lived in poverty has been reduced from 29 percent of the elderly to 10.5 percent. That is a dramatic improvement in the lives of real people. I think that is something people can be proud of. I think Bill Clinton and his economic plan, which has led to an economic resurgence in this country, ought to get some of the credit. This President deserves some of the credit.

Mr. DORGAN. Will the Senator yield on that point?

Mr. REID. Yes.

Mr. DORGAN. I heard a Senator come to the floor of the Senate a while ago and say, "For this President to claim credit for the good news about the economy is like a rooster claiming credit for the sunshine." There are some here who are unwilling to give this President credit for anything.

I read this, a few moments ago, in Money magazine, who understands. Barron's, Business Week, and Reuters give the President credit. Do you think this President would not have been given the blame for an economy that was faltering and failing?

Let me read, if I might, a comment by the Chairman of the Federal Reserve, Alan Greenspan. He said:

> The deficit reduction in President Clinton's 1993 economic plan was an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter.

That is language from an economist. It could be clearer, I suppose. But he said "unquestioned factor." The President's plan is an "unquestioned factor" in contributing to the improvement in economic activity that occurred thereafter.

Paul Volcker, former Chairman of the Federal Reserve Board, said:

> The deficit has come down, and I give the Clinton administration and President Clinton himself a lot of credit for that. I think we are seeing some benefits.

The Philadelphia Inquirer, in a series they did, said:

> What the GOP won't admit is that the President also helped the economy grow. Clintonomics showed enough fiscal discipline that it helped produce the lower interest rates, which, in turn, spurred economic growth.

I still hear people, who are Members of the Senate, come to the floor and say, "Well, the only people who care about the Federal deficit are we conservatives, we Republicans."

The people who care about the Federal deficit are the people who stood up and owned up to a vote in 1993 and said, "I will cast an unpopular vote in order to reduce this Federal deficit and get interest rates down and put this country back on track." Some of our colleagues who did that are not here. They lost their seats as a result of that. But the fact that we did that in 1993, according to all of these sources—don't just listen to me, but to these sources—the fact that we did that created the circumstances that allowed the American economy to grow and produce the kind of news we heard yesterday. Once again, this President is providing leadership in the right direction, and this country is moving ahead and in the right direction, rather than languishing or moving backward. That is the point I wanted to make today.

Mr. REID. Will the Senator read that quote from Barron's and from Money magazine again?

Mr. DORGAN. The Money magazine article was in August, last month. It says the following——

Mr. REID. And things have gotten even better since then.

Mr. DORGAN. Yes.

It says this:

> The majority of Americans are better off on most pocketbook issues after 3½ years under President Clinton, who has presided over the kind of economic progress any Republican President would be proud to post.

Barron's magazine said:

> In short, Clinton's economic record is remarkable. Clinton also rightfully boasted that our economy is the healthiest it has been in 30 years.

Finally, Business Week—and these are not publications that would normally be supportive of a Democratic President—Business Week said:

> Inflation is low, growth is good, and the dollar is strengthening. America is in its best economic shape in 20 years.

So if one doesn't want to listen to us because they say, "Well, obviously you are partisan on that," these publications are not partisan voices who evaluate this economy and say that America is finally on the right track. It is growing, moving ahead, reducing poverty, increasing employment, reducing inflation, reducing interest rates. That is good for this country.

The point today is, again, in an era of so much bad news and in a society which entertains people with other people's dysfunctional behavior and bad news, it is time to trumpet a little bit that we are finally moving in the right direction—deficits down, unemployment down, employment up, inflation down. It is finally important for us to say that we have turned the corner, and America is moving ahead.

Mr. CONRAD. If the Senator will yield, I just want to comment on the question of who gets credit and who gets blame.

The blame game is very popular, especially just before an election. Some are holding this President responsible for anything that has happened anywhere in the country during his time as President, even if it relates to

things for which the President has very little influence or control.

The national economy is one place where the President does have significant influence and control. I just say to my colleague, the Senator from Nevada, that facts are stubborn things. President Reagan said that: "Facts are stubborn things." My colleague from North Dakota says there are others that are not partisan voices who are confirming that this President's economic plan is working.

I would say that even those of us who are partisans can report facts and report them accurately. I would be prepared to debate any of my colleagues at any time and any place on the question of the facts presented here. Every single one of these facts is verifiable by anybody who cares to check. These numbers indicate clearly this President's economic plan has worked. The deficit is down each and every year of the Clinton administration, and down dramatically.

The head of the Federal Reserve says to us that it is unquestioned that the President's economic plan contributed to this improvement. This improvement has radiated through this economy, improving incomes. The Senator from Nevada reports the biggest increase in personal income in a decade; the biggest reduction in poverty in 27 years.

All I can say to my friends across the aisle is if they had a President with this economic record they would be running a campaign of "It's morning in America." They ran that campaign when the debt and the deficits were skyrocketing. Now we have a case where not only is the economy improving, income is improving, investment is improving, unemployment is being reduced, inflation is being reduced, and the deficit is declining—but this President has done it without writing the hot checks adding to the deficit—adding to the debt. That was being done during the 1980's.

So this is even a more remarkable accomplishment—to have this economy showing this resurgence and this strength even while President Clinton is bringing the deficit down each and every year—bringing the deficit down 60 percent. It took a vote that occurred here in 1993 on the Clinton economic plan, and it passed by one vote.

Mr. DORGAN. I wonder if the Senator will yield?

Mr. REID. I am happy to yield to the Senator in one second. But think how much better the economy would be if we were not having to pay the interest on the debt that accumulated during principally the Reagan and Bush years. I mean we would have no deficit.

Will the Senator acknowledge that?

Mr. CONRAD. The Senator is absolutely right. It is very interesting. If we didn't have to pay the interest on the debt that was accumulated during the Reagan and Bush years, just those years, we would have a balanced unified budget today. That is a fact.

Mr. REID. I say also the document about which we speak today is not something that was prepared by the Democratic National Committee, or the Democratic Senatorial Campaign Committee. This came from the Census Bureau. These are facts. And as the Senator from North Dakota has indicated, facts don't lie. These are the facts.

Mr. DORGAN. Will the Senator yield for a moment? If we go back 6, 7, or 8 years—6 years, for example—and think of where we were, deficits at record highs and increasing each year. There were the junk bonds, failed savings and loans; the derision with almost a financial casino in the country with the taxpayers paying the bill from S&L's that go belly up, junk bonds that were nonperforming, people going to prison, the placing of junk bonds under circumstances that were not legal. Do you remember when we were, 6 or 7 years ago, deep in debt, and getting deeper?

The point we are making now is that this country has turned around. It didn't happen just by accident. It happened because a set of Federal policies were put in place that said here is what we should do: We should turn the corner, and move in this direction—cut spending. This President proposed that; cut spending.

We have 250,000 roughly fewer Federal employees on the public payroll today than when this President took office. A quarter of a million Federal workers, who were working when this President took over from a Republican President, are no longer working for the Federal Government. It is the smallest Federal Government in decades in real numbers.

Mr. REID. Since John Kennedy.

Mr. DORGAN. Since John Kennedy was President.

I want to add one more bit of context to this. It is not my intention to come to the floor—nor is it the intention of Senator CONRAD, or Senator REID, or others who will join us—and say that we on the Democratic side of the aisle, or this President, President Clinton, are infallible, that we have not made mistakes, that we are solely responsible for everything that is good. That is not my point. It is not my point.

But my point is when others come to the floor and continue to kick and flail away at every tiny little thing they can find wrong, hold it up, and say, "Isn't this ugly," and entertain us for hours with this today because, "Gee, this is awful." Let us put in context where this country is headed, and who had the courage and the plan to move it in that direction. This President deserves some credit for that. I can name names. I will not do it. But I could just for fun go down a list of people here and what they said in 1993. They said this President is going to lead us into a recession; this plan will not work; this plan will bankrupt America; this plan will lead to slower growth; this plan will lead to less employment; this plan is in the wrong direction. It turns out that every single one of those people were dead wrong—not just wrong but dead wrong.

This economic plan put this country on the right path so that deficits came way down, interest rates came down, unemployment came down, new jobs went up, and inflation came down. They were wrong. This plan worked.

I mean, I have people in my hometown who are the kind of people who oppose everything for the first time. We all know people like that; just sit around and play pinochle and complain. No matter what somebody proposes. It is wrong; it will not work; and it can't work. This country was not built by complainers. While they were playing cards and complaining other people were out building, and doing.

This President came to office with a mission. He said here is a plan. And this plan he said, I think, will restore vitality to the American economy, and move us in the right direction. And it was surprising that some people found that the Democratic President provided leadership in a way that cut Federal spending, cut Federal programs, reduced the deficit, and put the country back on track, but he did.

I think the purpose of this discussion today is to put that in full context so that we can talk about something that ought to be good news for everyone—Republicans and Democrats—that every American ought to believe that it is better for us, no matter who gets credit if our country is moving in the right direction, because internationally we now must compete with tough, shrewd international competitors in a game where there are winners and losers, and the losers suffer the British degree of slow economic decline and the winners experience new jobs, hope, and opportunity. That is why it is so important to have this economic strength and why it is important that we are finally back on track with an economy that is stronger.

Mr. REID. I want to finish with two thoughts:

One, we had the lowest drop in elderly poverty. We talked about that; the biggest drop in child poverty; and, the largest drop in the poverty rate of households in 30 years.

There are statistics that relate to the State of Nevada. Bank lending increased by $10.5 billion. Home building increased by 25 percent per year during the years of President Clinton. Almost 5½ times as much new manufacturing jobs were created; 261,000 workers are protected by family and medical leave. We have new police officers, and that is going up. A lot of good things have happened.

What I say to my two colleagues on the floor today and the Presiding Officer is to build just briefly on what the Senator from North Dakota just said. I think with the Presidential election winding down and 5 or 6 weeks until it is over, I hope that, if we gain nothing else from our experiences during these past 2 years, we should recognize how much better things would be if we had a Congress that was willing to work, where you had a conference and where both parties were in on the conference; where instead of having the majority run roughshod over the minority you had people working together for the good of the country.

As it has happened in years gone by in this great body and the one down the Hall in the Capitol, I hope, if we learn nothing more, it is time that we develop and urge a thirst for bipartisanship here because of what has happened in spite of the polarization that is taking place here in Congress. Think about how much better it would have been had we worked together on these issues.

I yield to my friend.

Mr. CONRAD. Mr. President, I was going to make another point. When I got up this morning I went to get the Washington Post. Right on the front page is the reporting of what we are talking about here today. The headline on the front page of the Washington Post is, "Household Income Climbs."

The subheadline is, "Census Bureau Also Reports Poverty Rate Drop."

So if anybody is watching this and wondering if this is an accurate recitation of what the Census Bureau is reporting, you can just turn to your local newspaper and you will find these news reports all across America.

"Median household income rose 2.7 percent * * * after being adjusted for inflation."

Inflation is running about 3 percent. So incomes actually went up about 6 percent last year—biggest increase in a decade. Over the same period, the Washington Post reports the poverty rate declined from 14.5 to 13.8 percent. The number of people in poverty fell by 1.6 million.

That is the statistic the Senator from Nevada was using—the largest decrease in 27 years. The largest decrease in poverty in America in 27 years. That is the statistic both the Senator from North Dakota and the Senator from Nevada were using. If we need evidence this plan is working, here it is right here in this morning's newspaper.

Let me just conclude:

> The benefits of economic growth were spread widely through the economy—in nearly all occupations, all education levels and all income categories.

That is the kind of economic results you would like to have, and this economic plan is delivering those results. We ought to stay the course. We ought to stick with this plan. Absolutely the worst thing we could do is take a riverboat gamble and go back to the old days of supply-side economics in which somehow, as Senator Dole said last year, you cut taxes and you are supposed to get a big, big revenue increase. As Senator Dole said last summer—he said, you know, we tried that in the eighties. That was the idea that NEWT and the House Republicans had. We said everything would be all right. Well, it wasn't.

That was Senator Dole speaking just last summer, and only when he found himself 20 points behind in the polls did he decide a different policy would make sense. And if anybody is wondering whether his plan adds up, I just give you two numbers. We are projected to spend $11.3 trillion over the next 6 years. Our income is projected to be $9.9 trillion. Those two do not match up. You cannot spend $11.3 trillion and have income of $9.9 trillion and add up.

Mr. DORGAN. Is that under the Dole plan?

Mr. CONRAD. That means you are going to add to the debt.

Mr. DORGAN. I ask the Senator a question. Is that the projected income under the Dole plan?

Mr. CONRAD. That is the projected income under current law, that we would spend $11.3 trillion, we would have income of $9.9 trillion. And what does Senator Dole say? The first thing he wants to do is cut the income by $550 billion. Now you have a $2 trillion gap between spending and income. That is how you raise the debt. That is how you raise deficits. That is how you put this economy right back in the ditch.

If we are going to go back to a policy of debts, deficit and decline, that is the path to take.

I might just say Senator Dole says cut the income $550 billion. That would create a $2 trillion gap between our spending and our income. You would then think, well, he is going to propose $2 trillion of spending cuts to make up for it. Oh, no. He is not even close. He has about $700 billion of specific spending cuts that he has recommended, and if you look at the spending cuts what you find is he is saying we ought to cut just one category of Federal spending about 30 percent. And the category he has chosen is what Senator REID from Nevada knows well—domestic spending. He wants to cut it 30 percent, I say to the Senator.

Mr. REID. Education.

Mr. CONRAD. Law enforcement.

Mr. REID. Environment.

Mr. CONRAD. Environmental cleanup, roads, bridges, airports. He wants to cut those 30 percent. In fact, by the sixth year, he would cut them 40 percent.

If anybody in this country thinks the way we should build for the future is to cut, in the sixth year of Senator Dole's plan, education 40 percent, cut law enforcement 40 percent, cut the construction of roads, bridges and airports 40 percent, sign up to the Dole plan because that is precisely what he is recommending to the American people. That would be a disaster for the economic future of this country. And even with those cuts he is nowhere close to adding up. Instead, we are going to get a huge increase in the debt. That will increase interest rates. That will slow the economy. That will put our economy in the ditch. That is a policy of debt, deficits and decline, and we ought to avoid it at all cost.

I yield the floor.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I would be happy to yield, indicating that one of the things we have not talked about here today with the Clinton plan is something that we recognized very clearly in Nevada. As a result of the Clinton economic plan, in Nevada nine times more Nevada families received a tax cut than an increase. It happened all over the United States. In addition to that, businesses got tax breaks in the Clinton plan of 1993. We fail to talk about it. In the little State of Nevada, almost 7,000 small businesses got a tax break when we passed the deficit reduction plan.

Mr. CONRAD. Will the Senator yield just on that point?

Mr. REID. I will be happy to yield.

Mr. CONRAD. I asked my staff to find out in North Dakota what happened because we continually are told these are the big taxers and the big spenders. I have reported what happened to spending. Every year under the Clinton administration spending as a share of our national income has gone down—each and every year.

Big spending? I do not think so. This President has reduced spending measured against our national income. And on the tax side, in my State of North Dakota, as a result of the 1993 plan, 29,000 people got a tax cut because of the expansion of the earned-income tax credit that was included in the Clinton plan; about 1,400 people got an income tax rate increase. And who were they? They were couples earning over $180,000 a year and individuals earning over $140,000 a year. So 20 times as many people got a tax reduction as got a tax increase.

Mr. DORGAN. If the Senator will yield, one of the concerns I have about the proposal now for a substantial across-the-board tax cut offered by Senator Dole is that it is so at odds with what is required of leadership at this point. I said on the floor yesterday, and I will say it again, I admire Senator Dole. I think the service he has given to this country is something most Americans should be thankful for and grateful for. He has been a good public servant.

I said yesterday I would not trade one Senator Dole and his experience for

all 73 House Republican freshmen who boasted they had no experience and came here and proved it quickly.

I admire Senator Dole, but the fact is a test of leadership in our country is are you willing to do what is necessary for this country? Are you willing to propose what is necessary? President Clinton came in 1993 and made a proposal that was not popular. He knew and we knew people are not going to belly up to this one and say, well, sign me up; please let me have some of that—spending cuts and tax increases.

We knew that was not going to be politically popular. We knew it was going to be hard to do. It turned out to be extraordinarily hard to do. It turned out it passed in this Chamber by a tie-breaking vote being cast by the Vice President. So it turned out to be enormously difficult. Why? Because it was not popular. It was tough medicine. It was needed to put the country back on course. That is the test of leadership.

Mr. REID. And it was very partisan.

Mr. DORGAN. It turned out to be very partisan, regrettably. I wish it would have been a bipartisan effort to say, if we have to do some heavy lifting, let us all lift. But that was not the case. In any event, what has happened now is that Senator Dole, who has always stood here in this Chamber and said I do not agree with those who say let us have a big across-the-board tax cut and the deficits, the heck with the deficits, let us not care what happens as a result of it, he has always been one who stood in the well of the Senate and said these things do not make any sense. This does not make any sense. Now he has been convinced apparently to propose an across-the-board tax cut which will substantially reduce the revenue and substantially increase deficits. And do not trust me on that. Trust the Concord Coalition, a bipartisan organization or nonpartisan organization run jointly by a former Republican Senator and Democratic Senator who say this is going to vastly inflate the Federal deficit.

It seems to me, given the economic story we have talked about today, the question is, do we want to move in that direction again: swollen deficits, slower growth, more unemployment? Or do we want to continue with the plan that has worked for our country?

Mr. REID. I would say to my friend, in closing, we have heard a discussion here this afternoon about the economy and how the glass is half full rather than half empty. I have heard on the Senate floor, over the past month or so, the same type of discussion as it relates to crime in America; that is, "the glass is half empty, it is not half full," when we should recognize that the violent crime rate has dropped for adults. We are making progress with the approximately 40,000 new police officers throughout America. We are making great progress. We should talk about the positive effect of how crime is being attacked in this country rather than continually dwelling on the negative.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Georgia controls the next hour.

TAX RELIEF

Mr. COVERDELL. Mr. President, it is not going to be the subject I intended to address, but I could not help hearing some of the remarks from the other side about how onerous it would be if we were to allow the American family to keep more of what it earns in its checking account via tax relief. I am going to talk for just a second about it.

An average family in my State gets to keep 47 percent of its gross income. In 1950 those people got to keep 80 percent. Now they can only keep 47 percent after they get finished paying their Federal tax bill, State, local, the cost of Federal regulations, and extra costs they pay in interest payments because of the national debt that has been drummed up by an ever-increasing and larger Federal Government here in Washington.

Mr. President, 47 percent is what is left at the end of the day. I will say as long as I am here that any effort to bring relief to those average families and to allow more of their earnings to stay in their checking accounts is laudable and correct, because we have pushed the average family to the wall. That which we ask them to do, get the country up in the morning, feed it, house it, shelter it, take care of its health, is virtually impossible to do today with what is left in that checking account after some Government bureaucrat marches through it.

It is not my purpose to discuss it here this afternoon. But lowering the economic pressure on the average family in our country would do more to end the stress and the anxiety and the behavioral problems in our middle-class families than any other thing we can do. You can track the stress in those families and track it day by day, month by month, year by year, as we ratcheted up the tax pressure on those families. You can see the effect it has had on them—smaller families, no savings in their savings accounts, lower SAT scores, more members of the family having to work just to keep up; in some of them, not only both parents working but both parents having two jobs.

I am absolutely mind boggled that we would be arguing that it would be some evil and sinister thing to lower the tax pressure on the American family.

RE-CREATE A MELTDOWN

Mr. COVERDELL. Mr. President, we are hours away from the end of the fiscal year. There are leadership meetings occurring everywhere. I have become convinced that the other side has concluded it is to their political advantage to try to re-create a meltdown here.

We have learned from reading in the paper that the now famous Dick Morris, political consultant to the White House, spent 5 months planning the last shutdown, and we see the exact same characteristics as we come to trying to bring the year to a logical and bipartisan closure. Let us remember that, unlike a year ago, we have 60,000 troops in harm's way right now in Iraq and Bosnia. We have just watched a hurricane sweep across our eastern shores, and we have families desperately trying to dig out. We are 6 weeks from an election, and we ought to get the electioneering out of the Halls of Congress, come to closure here, lower the anxiety level for all those families involved, keep the Federal Government on course and move the campaigning to the elections.

Our majority leader, I believe, has done everything humanly possible to keep this in a bipartisan manner, keep tempers cool. He has come out here on the Senate floor and offered a resolution that would keep that safety net under our troops and under our disaster-stricken families. He has offered both sides six amendments and then come to closure on Wednesday night at a logical hour.

What was the response? "No way."

He then offered to start a debate on a resolution that would keep the safety net under the Government this past Tuesday with no limits on the amendments in process but an agreement that we would finish in an orderly manner by Wednesday night. What was the answer? "Absolutely not."

Then he said, let's take the Department of Defense appropriations conference report and, with a continuing resolution, you know, a safety net under the Government, omnibus spending vehicle attached to it. "No way."

So, option after option is presented, denial after denial occurs, and the clock is running and the troops are still in harm's way.

The White House has indicated that it wants to make the illegal immigration bill, which is a very, very large piece of legislation on which hours and hours and hours have been expended, wants to make this a center point, some sort of a leverage to bring us to the brink. I am reading from the Los Angeles Times: "Clinton seeks to halt further limits on noncitizens. Holdup of appropriation would vex GOP members anxious to hit campaign trail."

> Washington—Setting up a confrontation with Republican leaders, the White House indicated Thursday that President Clinton will not sign a must-pass spending bill [that is the safety net] until the GOP agrees to amend separate immigration legislation.

There will be others who will speak to this, but the White House said you

have to take out the Gallegly amendment. The Gallegly amendment left States the right to choose to allow legal immigrants in schools or not, and it has been argued and argued and argued. But the Republican leadership of the Senate and House said, "OK. In an effort to maintain the safety net, in an effort to bring a bipartisan conclusion to the 104th Congress, we will remove it." So, they did. After they did it, the White House says, "No, that is not enough. Now we want more changes in it before we will agree to sign it."

This reminds me of the system that apparently Dick Morris organized a year ago. Let me read from one of our daily papers, the Washington headline. It says:

> Immigration and Naturalization Service officials have learned that about 5,000 of the 60,000 immigrants naturalized in six days of mass ceremonies in Los Angeles last month concealed past criminal records that might have disqualified some of them from citizenship. . . .
>
> Of the 5,000 who proved to have criminal records . . . their alleged crimes ranged from serious offenses, such as murder and rape, that would disqualify them from citizenship to minor violations that would not.

This article says, "Clinton administration election year program to naturalize 1.3 million new citizens during this fiscal year ending October 1 * * *"

In other words, it is a rush, it is a political plan we have here to rush people through so fast that the FBI cannot even provide the traditional background check that would have spotted these murderers and rapists who are now U.S. citizens because of this political program.

Right here, it reads:

> Because of the rush to naturalize citizens, none of this FBI data was available to the Immigration and Naturalization Service before the ceremony.

What kind of nonsense have we gotten ourselves into here? What price are these elections worth?

It reads that:

> Prior to the inception of citizenship, USA officials said the INS generally waits until it receives the result of an FBI check on applicants for naturalization before granting them citizenship.

But that was pushed aside because the politics of this program was more important.

Now we come to this illegal immigration bill, and all of a sudden, it has become bigger than running the Government, and one cannot help but miss the connection that we have throttled up this immigration bill, we have used it as a wedge against keeping an orderly transition of Government, a safety net under these troops that are overseas, our seniors, our children's programs, school programs, all set aside for the politics of the moment.

The idea of strategically using immigration and naturalization politically, the idea of a political plan for posturing to destabilize our troops, disaster victims, is not a very pretty picture. No wonder there is so much cynicism about this process that goes on in our Capital City.

Mr. President, we have been joined by the senior Senator from Utah, by the chairman of the Judiciary Committee of the U.S. Senate, by an individual who has been deeply involved in this process since its inception. I yield up to 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. HATCH. Mr. President, I have to say I am very disappointed. The Clinton administration is playing political games with the illegal immigration reform bill. This is one of the most important bills of this whole Congress. The Congress has worked very hard on this very necessary legislation.

On August 2, 1996, President Clinton wrote to Speaker GINGRICH. The only item on which he said he would veto the immigration bill was the Gallegly provision on the free public education of illegal aliens. The provision was, in fact, contained in a draft conference report proposal circulated on the evening of September 10 by Republican conferees.

At no time in the next 2 weeks, as this draft proposal was circulated, was I advised that the administration wanted to remove title V of that proposal, dealing with restrictions on benefits for aliens.

Indeed, the administration mentioned the Gallegly provision was really the big item to them; that if we took Gallegly out, the President would sign the bill.

In order to accommodate this administration and facilitate passage of this very tough illegal immigration bill, the Republican conferees dropped the Gallegly provision outright, and I argued for the dropping of that provision, mainly because I wanted to get this bill through because there are excellent provisions in this bill that are desperately needed.

Additional changes were made to accommodate other concerns expressed by some Members on the other side of the aisle. For example, illegal aliens' use of Head Start programs, English as a second language programs, and job-training programs would not count in the determination of whether the alien had become a public charge and, therefore, subject to deportation. A legal immigrant's use of emergency medical services would not be subject to deeming.

But the administration is now engaging in a shell game. Even though we removed the one item the President said would lead to a veto and made still other changes in the September 10 draft, and even though the President had 2 weeks to weigh in and did not do so, the administration is now calling upon its congressional allies to slow down and even derail this bill unless wholesale changes are made to it. These changes are coming out of left field. By so demanding, the President is acting as the "Guardian in Chief" of the status quo.

These tactics make me wonder whether the President really favors tough anti-illegal-immigration legislation. Why did he wait until after the conference to make these demands as a condition of his support for the bill?

The American people want Congress and the President to deliver on this subject. The Congress is prepared to do so. Is the President?

Let me go over just a few of the items in the conference report that the President is helping to delay action on.

This is the illegal immigration conference report. On border control and illegal immigration control, we provide for 5,000 new Border Patrol agents, which are dramatically needed at this time if we are going to make any headway in this battle; 1,500 new Border Patrol support personnel; and 1,200 new Immigration and Naturalization Service investigators, which are very badly needed. They will not be there unless this bill passes.

We provide for improved equipment and technology for border control; for an entry-exit control system to keep track of the aliens who are supposed to leave the United States; and for additional and improved border control fences in southern California. All of that is included in just part of this bill.

Let me go on.

With regard to alien smuggling, document fraud, and illegal immigration enforcement, we provide:

Increased criminal penalties for alien smuggling and document fraud;

New document fraud and alien smuggling offenses;

New Federal prosecutors to investigate and prosecute immigration violations;

That alien smuggling penalties will be calculated for each alien a smuggler has smuggled in;

Wiretap authority in alien smuggling and document fraud cases; and

A new civil penalty for illegal entry.

We also make it unlawful to falsely claim U.S. citizenship for the purpose of obtaining Federal benefits, which has been going on now for years, and it is time to bring a stop to it. This bill will do it, and this President is stopping this bill.

With regard to removal of illegal aliens, we streamline the removal procedures so it can happen, so it can be done. Illegal aliens who are removed will be inadmissible for certain periods.

We revise expedited exclusion provisions of the Terrorism Act to ensure that those with valid asylum claims receive adequate protections from persecution. We take care of those with valid asylum claims.

You can see, these are just a few more of the things that this bill does, all of which are absolutely critical to solving this illegal alien problem in our country. Let me just go on.

With regard to criminal aliens—and we have plenty of those in this country right now; they are causing an awfully high percentage of the crimes in our country today. We have expanded the definition of "aggravated felon" for the purposes of the Immigration and Nationality Act. We have mandatory detention of most deportable criminal aliens. We have improved removal of deportable criminal aliens.

We eliminate loopholes under which criminal aliens have stayed within the United States. We improve the identification of deportable criminal aliens. We increase the Immigration and Naturalization Service detention space by 9,000 beds, something they tell us absolutely has to happen or we are going to have an even greater crisis on our hands than we have now.

We also have additional financial resources for the detention of criminal aliens and other detainees, which is absolutely critical if we are going to fight and win this battle with regard to illegal immigration. Let me go a little bit further.

With regard to interior enforcement, we provide that State and local authorities will be able to perform immigration control functions, including transporting illegal aliens to INS detention facilities across State lines, something that currently we have difficulty doing. A lot of States, just to get these people out of their States and get them into detention facilities, would pay for the costs themselves. Many States would provide the sheriffs' deputies and others to get these people out of their States. We provide they can do that, of course, with the cooperation and help of the INS.

We ensure at least 10 active-duty INS agents in each State. We certainly think that is critical. Of course, in the major border States, we have many more than that.

We improve legal border crossing.

We have increased border inspectors to speed up legal border crossing.

We have commuter-lane pilot projects for frequent border crossers.

As you can see, all of these various provisions that we have in this bill are absolutely crucial if we are going to make any headway against this problem of illegal immigration.

I have to tell you that it took this Congress to do some of these tough things. I want to personally compliment the distinguished Senator from Wyoming, Senator SIMPSON, for working so hard as subcommittee chairman to get it done, and the whole Judiciary Committee, because it was there that we really worked out the difficulties between the Democrats and the Republicans, and I think came up with a pretty superior bill, which now has become primarily the bill that came out of conference.

I want to compliment LAMAR SMITH and Mr. GALLEGLY and Mr. MCCOLLUM, and others over in the House who have played a tremendous role in this matter.

In the Senate, of course, Senator SIMPSON and everybody on the Judiciary Committee deserves enormous credit. On the other side of the aisle, Senator KENNEDY and Senator FEINSTEIN have really played significant roles, although Senator FEINSTEIN is primarily working with us today to try to get the bill through. She has done an excellent job. She has fought hard for her State. She realizes California, Texas, Arizona, Florida—all of these Southern States, these border States—have to have the bill. So she is fighting to get it. At the same time she is fighting her guts out, this administration is trying to undercut her and undercut what we have done.

It is an amazing thing that we have been able to bring 535 people together in the legislature, at least a majority of them, to pass a bill that will make a difference in this country.

This conference report passed overwhelmingly in the House for good reason. People over there are concerned about what is happening. And it will pass overwhelmingly here if we can get it up. Frankly, the only logjam in getting it up happens to be the President of the United States and his cohorts who are all over Capitol Hill trying to ruin this illegal immigration bill.

To me, I cannot understand that kind of reasoning. I cannot understand that type of activity. I cannot understand the President doing this. I cannot understand why they are not working with us to get this bill through, especially since we made every effort to get the Gallegly amendment out of that bill.

To be honest with you, the Gallegly amendment was not as bad as some people have been making out. It was a rule of Federalism. All Mr. Gallegly and California wanted is for the States to have a right to determine whether or not they will educate illegal alien kids, at a tremendous cost—$2 billion to $3 billion in California.

I do not think there is a State in this Union that would decide not to do so, even California, in spite of what some out there would like to do. But the fact of the matter is, it was not a bad amendment in terms of Federalism. It would not have hurt anybody, in my opinion. We even modified it to try to please the President, so we grandfathered K through 6 and 7 through 12. We provided a safety valve so we could rip it out of the bill at a future time, with expedited consideration by the Congress. But that was not good enough.

Finally, it came down to literally just ripping it out of the bill, calling it up maybe separately, but ripping it out of the bill to satisfy this President who said he would not veto this bill if we got rid of Gallegly. No sooner did we do that, and last night they come up here and said, we want title 5 out of the bill. Title 5 is a pretty important provision of this bill. As a matter of fact, it contains a number of very important provisions if we are going to get a handle on illegal immigration in this country. It is incredible to me that they would do that after they gave their word, it seemed to me, with regard to the Gallegly amendment and taking it out of the bill.

Mr. President, I see my time is up. Let me just finish by saying this. This is an important bill. It is one of the most important bills in this country's history. We can no longer afford to allow our borders to be just overrun by illegal aliens. There are some indications that this administration has been soft on letting people into this country, most of whom vote Democratic once they get here as noncitizen illegals. Frankly, a lot of our criminality in this country today happens to be coming from criminal, illegal aliens who are ripping our country apart. A lot of the drugs are coming from these people.

This bill will play a significant role in making a real difference for the benefit of our country, and I am calling upon the President and the people at the White House to get off their duffs and start helping us to get it passed and quit this type of activity. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks by the Senator from Utah. I now yield up to 10 minutes to the senior Senator from Missouri and the chairman of the appropriations subcommittee on VA–HUD.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. BOND. Mr. President, I thank my colleague from Georgia. I appreciate the opportunity to explain to some of my colleagues, and those who might be interested, what is going on with the appropriations process.

I think all of us know that the time has come to shut down this session of Congress. We have a couple of very important things pending.

The fine chairman of the Judiciary Committee has just described what needs to be done on a problem that everyone recognizes, and that is the problem of illegal immigration. Can we move forward on that bill? I think it is one of the key elements of a resolution of this session of the Congress. But everybody knows that before we leave town we have to provide the appropriations measures to keep the Government running and to keep programs going which the Federal Government has undertaken as a responsibility.

I understand that perhaps an hour or so ago the Democratic leaders on this

side and on the House side had another one of their infamous non-infomercials, a news conference in which the facts were not necessarily the absolute requirement of any of the discussions. I believe they were talking about how the Republicans intend to shut down the Government again.

Let me be clear about one thing, Mr. President. The distinguished occupant of the chair chairs an important appropriations subcommittee. The appropriations bills are extremely important, and we work on those appropriations bills on a bipartisan basis.

I have the pleasure of serving as chairman of the Veterans Administration, Housing and Urban Development, and Independent Agencies Subcommittee. And on that subcommittee, I am greatly aided and assisted by my ranking member, Senator Barbara MIKULSKI, a Democrat from Maryland.

Now, we often have disagreements on those measures, but we work them out here on the floor. We can, in this body, pass measures that are greatly objectionable because of the right of any Senator to filibuster. So we, in essence, need to have 60 votes for a controversial provision in any measure. And we customarily operate on the basis of courtesy to take into consideration the views of the minority.

In this VA-HUD bill, we went a long way because there were a lot on this side of the aisle who were not thrilled about AmeriCorps, the national service program. Yet, as an accommodation to those who felt strongly about it—Senator MIKULSKI was an original sponsor of it; it had the strong backing of the administration—we put $400 million in that bill for AmeriCorps. We carried it over to conference with the House. And the House, many on our side, felt even more strongly in opposition. We made the point that we fought the battle and we won because we knew it was important to Members on the Democratic side here, to the President. We included that in the bill.

Our bill has some very, very difficult things. Allocating scarce funds for housing, for urban affairs, for the Veterans Administration, for EPA, for NASA, for the Federal Emergency Management Agency. We worked all those out. During the course of those conversations, we had not only the budget requests from the White House in front of it, but we were assured that the White House had conversations with and expressed their views to the members on the minority side in our committee.

We came up with what I think was a good bill. It passed overwhelmingly. It had some additional things on it this time. It became not just an appropriations bill, it is an authorizing bill, a new entitlement bill. But we got it through.

Yesterday, at about 10 o'clock, the President signed the VA-HUD bill. He signed it, signed it into law. It is law. The appropriations bill is the law for spending for those key agencies for the coming fiscal year.

Imagine my surprise when I was summoned to a meeting of the negotiators on the omnibus appropriations bill to handle the unresolved issues in appropriations. I was told by Mr. Panetta, a representative of the White House, that they wanted to put $160-plus million in the VA-HUD bill. I said, "Excuse me, I believe the President just signed the bill yesterday." They said, "Well, the President had some reservations and he wanted more money."

There are a lot of things, Mr. President, on which I wanted more money. We did not put enough money into the preservation of low-income housing. We need to do more in terms of an investment to make sure we have an affordable housing stock, that we have the stock of housing that is either publicly owned or reflects public assistance through section 8 programs in this country. If we had more money in the budget I could find some very, very important places to put it in terms of housing, in terms of science, space, and environment, giving more money to the States for their State revolving funds.

The White House said, "But we want to add some more money to your bill." I said, "This is the bill that you signed about 26 hours ago." They said, "No, we had reservations."

Mr. President, I heard of the old trick of moving the goalposts. Some may like the analogy of the Peanuts cartoon strip, where every fall Lucy promises to hold the football for Charlie Brown. She says she will not move the ball this year, but every year she takes the ball away.

We are beginning to learn very slowly, too slowly I am afraid, that this administration does not negotiate in good faith. This administration has some other game they are playing. It is not designed to achieve a reasonable accommodation between the parties, between the legislative and executive branch, to move forward on appropriations.

Now, if there is a shutdown, let me assure you it will be a shutdown engineered by the White House and their allies in Congress. This is where the responsibility will lie.

Why do we have a number of bills that are not signed? Mr. President, you and I have been here while we went through the process. Now, a lot of people may not understand what we say by the term "filibuster by amendment." But for those who do not understand the procedures of the Senate, unless you have a unanimous consent agreement, unless there is an agreement before you start out on a bill, you can continue to add things and add things and add things. You can never come to closure. As Republicans we have 53 votes. If we wanted to cut off debate we have to have 60 votes. We cannot stop people from talking or filibustering by adding amendment after amendment after amendment. That is what was done on Treasury-Postal. I worked on the Treasury-Postal bill in the previous Congress as the ranking member, and it funds some very important things—White House, Treasury, Customs, GSA, things like that are very, very important. There are not 50 different amendments that needed to be offered to that bill.

I remember one of the measures we voted on was a measure to establish a new Federal responsibility, a new Federal responsibility relating to guns in schools. Mr. President, if there is one area where the Federal Government has not been before, it is in local law enforcement. I suggest that the Federal Government has fallen short in those responsibilities which are properly the Federal Government's responsibility.

We fought—and when I was the ranking member, Senator DeConcini was the chairman of the committee, my good friend from Arizona—we fought against cutting back on the Customs work in interdiction, to stop drugs coming into this country. We have cut too much in the Federal law enforcement agencies. We certainly do not need to be setting up new Federal responsibilities which directly overlap and are totally inconsistent with local law enforcement responsibilities.

But that amendment was voted on on the Treasury-Postal appropriations bills, after 3 days on the floor, a bill which should take at most 2 days to debate those issues, that genuinely related to appropriations for Treasury-Postal accounts. We had so many amendments still hanging out that the majority leader had to withdraw the bill.

We went on to Interior, to try to get a resolution for those. Then the amendments kept coming out of the woodwork. If anybody does not understand it, I can tell you unless you have 60 votes and can invoke cloture continually, you can continue to hold this place hostage by offering amendments or talking as long as you want.

Now, we have made a good-faith effort across the board to get the appropriations bills done. I have no interest in going back and reopening one of the appropriations bills that has been signed. More and more ideas keep floating in from the White House. They want to add this. They want to add that. They want to write their own legislation. It is as if they never worked in a government where there was a strong opposition party—in this case, a party in control of the Congress.

I came from Missouri where I served as Governor for 8 years with a 2-1 Democratic majority in both houses. I learned early on, I had to learn, that bipartisan cooperation, comity, honesty in dealing with the other side was

essential to make the process move. We do not have that here. It is perhaps the fact that the President comes from a one-party State.

All I can say is we are doing our work on appropriations. We are going to move forward on appropriations. I hope our leaders will make the best offer they can, trying to guess what the White House's latest demands are to accommodate as many as they can. If they will not, we should do a continuing resolution and get out of town.

One last piece of business that we have from the small business committee, since my colleagues on the other side are not present I will not at this point ask unanimous consent to proceed to H.R. 3719. That is vitally important if we are to keep the lending programs, 5047(a) program, SBIC program working, for the Small Business Administration. It is being held up on the minority side. I will come back and explain in detail why the SBA and small business in this country needs that measure. I hope the hold is lifted so we could pass this measure, many of the provisions of which have already been passed in this body.

I acknowledge and appreciate the work of the Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator for his remarks. The moving goalposts, as he has described, become clearer and more evident with each passing hour here in the Nation's Capitol. Unfortunately, the anxiety level of those—not suffered by us—by the families of the troops overseas and flood victims and all those people dependent on the system, needing the safety net we are trying to put in place.

We have been joined by the senior Senator from Wyoming who is the preeminent authority on legal and illegal immigration and has been undergoing this moving goalpost now for some period of time. I am glad he could join us.

I yield up to 10 minutes to the Senator from Wyoming.

Mr. SIMPSON. I thank my colleague from Georgia, Senator COVERDELL. I think it is tremendous that you have arranged this bit of time to share with the American people so we each get to step forward and tell the theory of the moving of the goalpost. To me it is the moving of the stadium. I think they moved the end zones, the stadium, and as far as I know, the campus. We will review this for a minute.

I have been doing this stuff for 31 years. It is called legislating. You do it with Democrats if you are a Republican, and hopefully if you are a Democrat, you do it with Republicans. It cannot work any other way.

Over the years of my time here I have served as chairman or ranking member with some very unique partisan people. Senator Al Cranston with the Veterans' Affairs; Gary Hart, nuclear; TED KENNEDY, Senator KENNEDY, with Immigration and Judiciary; JOE LIEBERMAN, BOB GRAHAM, nuclear; JAY ROCKEFELLER.

These are the things that I have done. It has always been done with civility. It has always been done openly and honestly. I can't function in an atmosphere where people lie. That is what is happening here, and I am appalled by it. Let me tell you, it isn't about TED KENNEDY, who is one of my most delightful friends, and I have the highest respect for him. Let me tell you what happened yesterday. Get it down. The administration, the White House—remember, they told us if we would take the Gallegly amendment off the immigration reform bill, it wasn't, "Well, I might," but it was, "I will probably sign it." It was said that way. We didn't have any reason to believe they would not sign it at the White House.

Last night, in good faith, myself, Senator KENNEDY, HOWARD BERMAN, a Democrat from California who I delight in and enjoy very much, Congressman LAMAR SMITH, who is just one of the most splendid young men I know, who does a tremendous job with the chairmanship of immigration, the four of us sat down to see if we could give a little on title V because the latest request from the White House was, "If you get rid of title V, we will complete all the work on the CR and sign it by tonight at midnight." The only thing wrong with that is nobody had ever agreed to give up title V—not ORRIN HATCH, the chairman of the committee, not Senator KYL, a member of the subcommittee, not Senator FEINSTEIN, who has been an absolute stalwart in working with me; she deserves extraordinary credit for doing strong, strong legislative work in an atmosphere of high emotion from her State. She and Senator BOXER are more affected than anybody else in this place. They have stepped up to the plate, and it is a great honor to work with them.

So we are going to get down to title V. I said we are going to go to cloture next Monday on that bill, and we have about 70 votes in our pocket, which will get you cloture in any ballpark here; you need 60 votes. So most of the Republicans would vote for cloture, and thanks to the work of Senator FEINSTEIN and others on that side of the aisle, we would get cloture because there are 15 to 20 Democrats who will get cloture for us and help with that. So here we are.

On August 2, the President wrote a letter to the Speaker to express concern about a single provision of the immigration bill, which was authorizing the States to deny a free public education to illegal aliens. The President threatened to veto the conference report if that provision or anything like it was included. No other provision was opposed in that way.

After several weeks of hard, considerable debate and efforts to develop an acceptable compromise—admittedly, it was done, I think, in too much of a partisan way, but it was done and everybody knew what happened; everybody has seen the conference report—we agreed to delete the provision that was very popular in the House and had considerable support in the Senate. Yet, within the last day or so, the White House and Democrat allies have moved the goal posts. They have been attempting to obtain even further changes. All the time there is something new.

You have had it reported here. I have never seen anything like it in 31 years of legislating. It would be bad enough if this were done by another veto threat, and early in the session. But this time the President is attempting to blackmail this Congress into accepting the changes he wants in the immigration bill, as well as changes in several other bills. Get this one: You could tell by the tenor of the discussion when the White House person entered the room last night that what they were really trying to do was get the stuff they could not get in the welfare bill and get it out of the immigration bill and correct the deficiencies in the welfare bill. I am not having any part of that. The President signed the welfare bill. I commended him on that. I thought that was great. He got flack and he wants to change some of it. But he isn't going to do it on this watch and, surely, he is not going to do it with an immigration bill. I can assure you of that.

Then we have this threat to refuse to sign the CR. We have the threat to close the Government. Let me tell you, that won't work this trip because we are going to stick around to see that the Government does not shut down, because we are going to shovel this back and say there is nothing in there that would shut the Government down. The Democrats and the Republicans in the House and the Senate, trying their best, did what they could. If they fail, then the Republicans, which is the duty of leadership, produce a bill. If the President wants to veto it, do so.

So here we are. You can see the scenario—oh, it is so vivid. Tuesday, we will have to think about closing the Government. Guess who will take the flack for that? Those bone-headed Republicans that let it happen the last time. That is not going to happen this trip because there is nothing in there to veto. It is called doing the business of the United States. It is done by people like MARK HATFIELD and Senator ROBERT BYRD, and by people like Senator MIKULSKI and Senator BOND, and it is done by people like Senator FEINSTEIN and Senator SIMPSON; it is done that way over here. Maybe the White House does not understand that, but I understand it.

So now what are the changes that we want here? Oh, well, title V, get rid of

title V. Why would you want to get rid of title V? I will tell you what is in it.

Without the requirements that sponsors earn at least 140 percent to 200 percent of the poverty line, welfare recipients will be in a position to sponsor immigrant relatives, even though they will be unable to provide the support for that relative that they have promised. These immigrant relatives will then be able to qualify for welfare programs costing the United States billions of dollars.

That is in title V.

Without the amendments making a "public charge" deportation effective, immigrants who go on welfare soon after their entry will be able to continue to receive it indefinitely, without fear of deportation.

That is in title V.

Without "deeming"—in other words, considering that the petitioner and his or her income is that of the immigrant—for immigrants now in the country, many immigrants will continue to receive welfare, even though their middle-class or wealthy relatives who sponsored them are perfectly able to provide needed support.

That is in title V.

Without the new welfare verification requirements, illegal aliens, who claim to be U.S. citizens and just stand there and say they are, will continue to receive assistance, such as AFDC, Medicaid, and public housing.

That is in title V.

Without the provision authorizing full reimbursement to States—listen to this one—now being forced by Federal mandate to provide emergency medical services to illegal aliens, the heavy burden of that mandate will continue to grow.

That is in title V.

Without the provisions expediting removal of illegal aliens from public housing—which is the work of Senator REID and what he has been talking about for years—illegals will continue to occupy public housing, displacing U.S. citizens and lawful resident aliens.

That is in title V.

Without the prohibition on States treating illegal aliens more favorably than U.S. citizens, States will be able to make illegals eligible for reduced in-State tuition at taxpayer-funded State colleges.

That is in title V, together with all the stuff to clean up their use of unemployment compensation, their use of the Social Security system, and much, much more.

That is what is in title V.

There we are. I thank Senator FEINSTEIN for being most courageous in the face of the onslaught that I am sure she is going to get. I want to commend Senator KENNEDY, who worked with me until 2 in the morning to do a package, which must have drawn such a great big chuckle this morning when it got down to the White House. I have been doing this a long time, and I have always done it with absolute honesty. I have done it with orneriness, with passion, and I have done it with glee, with grief, but I didn't lie. This is appalling, absolutely appalling.

If the trick is simply to shut down the Government, well, that is nothing. I never spent a nickel's worth of time figuring out how to do a bill that would go to the President so he would veto it so he would lose California. That has never been in my scenario—never would be; don't care about that. I care about doing something about illegal immigration. We couldn't do anything about legal immigration. That is for another date.

Ladies and gentleman, this is a strong, potent, powerful bill. And, if all goes well, it will be voted on; Monday at 2 o'clock on a cloture vote. And cloture will carry. The debate will be cut off, and after the hours of postcloture and debate are over, we will do that on through the night, we will vote. We will do an immigration bill, and place it on the President's desk. I hope and pray that he will sign it. But it isn't crafted to blow up in his face, and it was not crafted by people who come to Congress, as they have been doing in these last days who stand in front of you and do something different than they said they would do before. And I am sick of it.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am grateful to the Senator from Wyoming for coming and sharing these last 2 days with us, and the American people. It is quite an alarming story.

We have been joined by the senior Senator from New Mexico, the chairman of the Budget Committee, and I yield up to 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Thank you, very much, Mr. President. I thank the Senator from Georgia.

Let me thank Senator SIMPSON for his forthrightness and the way he conducted himself as a Senator. The fact that he has been honest, and the fact that he has been diligent in everything he has done around here, lends great credence to what he is talking about here today.

Frankly, let me just pledge to the Senator—not that I can be of any help, but I agree with everything he has said here on the floor. In fact, I think there is a lot of game playing going on right now, not only with reference to that bill but also the immigration bill. But there are a lot of other things going on about who is going to be responsible for closing down the Government. Everybody is on that kick. We have a few hours, and we have to get our work done. That is what the Senator has been talking about—getting our work done. There isn't anybody trying to close the Government down. And the President is getting almost everything he has asked for in major expenditures in terms of education, and in terms of the environment. What is there to close the Government down over? It can't be the kinds of things he was talking about last year. It must be something very strange that is in somebody's craw around here. And I wonder just precisely who it is and what the agenda is.

I do not think we ought to be threatening each other with closing down the Government, or using tricks, or gimmicks to try to blame it on somebody. We can get this job done, and get it done right. Every piece of legislation that is ever dreamed up can't get passed. With 200 amendments around here that have nothing to do with appropriations, we can't fix all of those in the last 72 hours of the U.S. Congress.

I didn't come down here to talk on that. I came to take on the economy and a few of the contentions presented on the floor of the Senate by some on the Democratic side about the status of the economy. If I get enough time when I am finished analyzing what really has happened and whether there is really anything to brag about in terms of how the economy has proceeded in the last year or two, if I have enough time, what I have to say will fit right into why Senator Dole has a new economic plan.

Let me first suggest that yesterday some Census data came out that permitted the President of the United States and some Members of the other party to tell the American people that things are really going right, and that the economic facts are really on the side of staying the course that the President has set for America.

One of the things that they talked about has to do with real median household incomes. Listen to this. They are saying the real median household income rose. And so they are saying we are on the right track. It is going up.

Let us get the numbers and let us get the facts. It rose from $33,178 in 1994 to $34,076—not a significant increase, but an increase. But what was not said was that even as it has increased, it is still lower than it was in 1990 under President Bush. It was only higher in 1995 relative to the low levels it fell to in the early 1990s. It increased in 1995 because it went down after 1990 during this era that the President claims is a great economic era and we ought to maintain the status quo. Under the Bush administration it was $34,914, which is almost $900 higher than it is now. The year 1995's level only rose from 1994 because it was recouping some of the ground lost in the preceding years.

Arguments are also being made that Census data shows a lessening of income inequality in 1995. They note that the income share of the top quintile has gone down some, thus bridging that gap between the poor and the rich, or the rich and the poor. Let us look at that.

In 1995, there is seemingly something to brag about because the top quintile's income share went from 49.1 percent to 48.7 percent, four-tenths of a percent down. What isn't said is that the income distribution was much more fair in 1992—at that point, the top quintile had only 46.9 percent of the total income pie. Thus, income inequality was much less when the President was inaugurated, it then worsened significantly, and then eased back fractionally last year. For this, we should tell America the economy is doing splendidly? When in its best status under President Clinton, income inequality is still worse than the last year of the previous Presidency.

I do not choose to make this a battle among Presidents in a partisan fashion. But I do choose to say that when I left the White House yesterday at a bill signing, I heard our President make these statements. Somebody wanted my comments. I will tell the Senate what I said to that newsperson. I said, "I do not want to comment now, because I want to go back and look at the facts because something intuitively tells me that there is another side to this story." I came back and asked: Is there? I just told you that, indeed, there is.

Let me take another one. We are talking about trying to have the lower income people get a bigger share of the economic pie when compared with the wealthier people. So bragging is going on that in fact the bottom quintile did increase its share a little bit in 1995, in terms of the size of the income pie that they took in. There again, it is interesting to note that that the bottom quintile's income share was higher in the last year of Bush Administration than it is now during the bragging year. It only went up in 1995 because their share went down so far during the first 2 years of this administration.

But most importantly, there is another aspect of the Census report which concerns me greatly - real median earnings for full-time workers in America are still going down—not up. The very same survey that yielded some limited good news about 1995 median incomes says the following: For men in 1995, real median earnings were down 0.7 percent, and for women, real median earnings were down 1.5 percent—not up; down. In fact, real median earnings have fallen in every year of the Clinton administration for both men and women.

That brings me to what I would have been saying on the floor in light of some of the discussions about the Dole economic plan. And I am going to run out of time. But it is a perfect entre to say to those who want to listen, that the distinguished Republican majority leader who is running for President of the United States had two options on the economy when he decided to run. One was to say, "The status quo is neat. Let us just stay on the status quo for the next 4 years, if I am elected President." That would have put him right alongside of our President saying things are really going very well. Or he could ask some experts for the best we can put together. "Can we do better? Should we do better?" He did that. And the answer given by eminent economists—not wild-eyed economists with new theories, but mainstream Nobel laureate economists—was, "We can do better and we should do better." Then the question was asked: "How do we do it?" And, interestingly enough, what our candidate for President has been busy trying to do is to argue for the six-point plan they recommended, a plan which would produce some economic figures that would be truly worthy of boasting about. I am not here saying he has presented his message magnificently. But, I believe that if the details of his plan got out to the public more fully, it would change the election as people identified increasingly with his vision of America.

Mr. President, I have just summarized for the Senate what the situation is with reference to incomes for men and for women in the year 1995. And even though some Members on the other side of the aisle and the President have touted an increase in real median household incomes in the year 1995, I remind the Senate that is the case only as compared with 1994. But if you look to 1990 during the Bush administration, median household income was higher than it is today. Furthermore, throughout every year of the Clinton administration, real earnings for full-time workers have fallen. They grew by minus seven-tenths of a percent for men, and minus 1.5 for women. That means we are not making any real headway in what people are earning for the time they spend working trying to get ahead.

It also means that income inequality is not getting any less. The President has championed the fact that the wealthy people's share of the total income pie came down in 1995. While this small move toward lessened income inequality is welcome, this gain is small in comparison to significant widening of income inequality which has occurred during his Presidency. In fact, the income distribution is far more unequal today than it was in 1992, the last year of the Bush Presidency.

Coupled with these above facts, there are other striking economic woes that now face the U.S. economy. We are experiencing the slowest growth rate of any recovery in the last 50 years. We have the lowest productivity growth during any Presidential term in the last 50 years. Tax burdens for middle income individuals have risen sharply under this President. The personal savings rate is now at its lowest average level of any President's term in 50 years. With this unfortunate backdrop, it is no wonder that many Americans wonder why they are working harder and getting less for their work.

Senator Dole, as I indicated in my earlier remarks, looked to five or six of the best economists around and they suggested it need not be this way; that we ought to be able to do it better. What they suggested, he adopted after a few months of study and discernment.

The conclusions reached were that Senator Dole and his running mate should not run for the White House, based upon trying to keep the American economy as it is now and keep the fiscal policy as it is now and the tax policy as it is now and the regulatory policy as it is now and the education policy as it is now, because to do so is to extend this very serious negative backdrop of the American economy for working men and women. The wealth machine that is enumerated in the gross domestic product is not getting big enough each year for those people working to get more for what they do, rather than stagnating or getting less.

Essentially, Senator Dole concluded, as I urged him to do, that we ought to try to do better, and that meant he had to come up with an economic plan that experts would say would do better. One that would ensure that the earnings of all Americans and median household incomes would be up in 7 or 8 years as compared with 1992 or 1996 or 1995.

These economists recommended six things. Six things are his plan. Where people have learned about these and understand them, they opt for this economic direction instead of the status quo. First, he suggests that to get there we ought to adopt a constitutional amendment to balance the budget. Clearly, I believe it is fair to say that whomever is President next year can cause that to happen, for it would already be out there in the States with ratification working had this President wanted it, for all he had to do was say the word and one or two—I cannot remember which—Democrats would have clearly gone with him.

The next key item is a program to balance the budget by the year 2002. Might I say in that regard that there are some who insist that he tell us how, our candidate for President Dole, tell us precisely how he would do that. Mr. President and fellow Senators, he is not President, he does not have OMB with a couple hundred staff. He cannot produce a 1,000-page document. But he has said essentially here are some things I would do. There are two parts to it and they are both easily understood. Adopt this year's Republican

budget and implement it, and then reduce spending over the next 6 years, 1 percent a year for a total of 6 percent over 6 years.

Now, what do you get for that is what the American people ought to ask. And they get the next part of this reform. And it is tax rates are cut 5 percent a year for 3 years—a 15-percent reduction in tax rates. Let me spell out what this means for ordinary citizens. A married couple with two children earning $30,000 would save $1,272 per year. A married couple with two children earning $50,000 would save $1,657 per year. A retired couple with no children earning $60,000 would save $1,727 per year.

This is money that average citizens in our sovereign States would keep. Money that now gets sent to Washington in taxes. They could keep and spend this money however they see fit, instead of under the Federal Government's budget and programs.

In addition, the capital gains tax, which is an onerous imposition upon the sale of assets and the sale of investments would be changed to be 50 percent of what it is now, or 14 percent. All our industrial partners in the world tax these kinds of asset sales much less than we do, and they make their money and their resources work better for them, and make the economy more vibrant. We must do the same. This is a direct effort to cause growth to occur more. It would make productivity go up, for there is more to invest and more to be saved.

His fourth point was to do away with the IRS as we know it.

Furthermore, in his first term, he intends to reform the entire tax structure, to press hard for savings and investments which are now penalized under the code because, for the most part, they are taxed twice.

And that left two other major points, for you can see this plan of his is not just a tax cut, tax reform plan.

The two remaining issues are very important. Modify the regulations on business in America so that you keep those that are needed and effective, and you reduce those that are not effective and not needed. Now, how does that help? To the extent that we are spending money for excess compliance, it cannot go into the pockets of our working people. It cannot be part of real growth for it goes into unnecessary expenditures that cool the economy rather than let it grow.

On that score he recommends in this plan that the best economists in America helped prepare, that the justice system, the civil justice system should be also amended, modified and made more responsive by eliminating some of the drag and costliness of litigation that is truly not necessary for the American people's well-being. Such litigation extracts an enormous cost from the economy, which goes to attorney's fees and court costs, public punitive damages and things like that that almost everybody thinks are significantly out of hand. To the extent that cost is put on the economy, there is less there for wage earners to get in their paychecks and for small business to earn as the businesses grow.

And then last but definitely not least, if you are going to have more productivity in America and begin to reduce income inequality significantly and permanently, we must reform our education system. Others have different solutions. They say "why don't you tax the rich more?" Well, let me give you a very living example that it does not work, because we have taxed the rich more under this President's economic policies and, lo and behold, the spread between the rich and the poor got bigger. I just told you that in my previous remarks.

It did not get littler; it got bigger. In fact, the President is bragging today because in 1 out of the last 3 years, income inequality came down a bit, but it never was as favorable as it was in the last year of President Bush's term. So, that is not a solution.

Almost everybody says we have to do a better job of training some Americans who are not getting educated very well, not getting trained very well, and thus do not get in the mainstream and cannot earn good money on good jobs. One of the economists advising our nominee, the Republican nominee, is a Nobel laureate named Dr. Becker, from the University of Chicago. His expertise is the development of the human side, that is people development in a capitalistic society. The recommendation is that President-elect Dole be bold, and he say boldly and firmly: We are going to make education in the ghettos and in the barrios and in the areas where our young people are getting inferior education, we are going to change that even if we have to give them scholarships to move out of that area to get educated in another school.

There would be a whole reshuffling, reorganizing, reforming of how we educate those who are getting poor education in this system, for whatever reason. While we are busy about that, the way we train post-high-school kids and young people for living jobs in the workplace, that we take the money we are spending and, instead of throwing it around in hundreds of programs, that we focus it clearly in a competitive way, with a lot of choice on the part of the recipients, in an improved job training program.

Now, Mr. President, for those who would choose to say this plan cannot be done, I merely suggest that they do not know Robert Dole. They do not know these marvelous economists, full-blooded, true-blue Americans, mainstream, but the best, who say the status quo of today is not good enough. A status quo where real median household incomes are worse than in 1990, where, for men and women who are employed full time, average earnings are still coming down, not going up. That means, contrary to the braggadocio of this administration about what kind of jobs are coming on, that facts seem to indicate many of the new jobs are cheap jobs, where the administration would suggest they are not. That fact that I just gave you would indicate, since there are more jobs but median real earnings are still coming down rather than up for full-time workers, it would mean they are not getting better jobs, in terms of the new entrants in this job market.

So, when you add all these up, I conclude—and since the issue was raised on the floor today I thought I would give my version to whatever Americans are listening and to whatever Senators truly care—I think it can be done, I think we can do better than today's status quo.

Let me suggest, for those of us who have been trying to move this huge battleship, the battleship of Federal expenditures, which turns ever so slowly in this huge ocean of demands, of people wanting more from their Government, it moves slowly. But for those of us who want to continue the movement in the direction of balancing the budget, we can say to those who will listen to us about the Dole plan: If we cannot do it, we cannot prove balance, then we will not do the plan. If we cannot prove balance, we will not have the tax cuts. If we cannot prove that we know how to turn the expenditure ship in the direction of balance, then obviously we will not carry out this plan.

I thank the Senate for the time, and I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I have an agreement from the other side to have 5 more minutes under my control of the time for the Senator from Texas.

Mr. DOMENICI. I yield the floor, and if I can find time later in the afternoon, I will complete this.

Mr. COVERDELL. If I might, Mr. President, tell the Senator from New Mexico that after her 5 minutes, it will go to a period of morning business until 5 and there will be ample time.

Mr. WARNER. Mr. President, reserving the right to object, if that is——

Mrs. HUTCHISON addressed the Chair.

Mr. WARNER. Could I be recognized for a period of time following the distinguished Senator from Texas for a period not to exceed 5 minutes, with the understanding that an equal amount of time should be offered to Senator Bob GRAHAM of Florida. The purpose for the Senator from Virginia and the Senator from Florida is to introduce a bipartisan bill for consideration by the next Congress.

Mr. COVERDELL. If I might respond to the Senator from Virginia, I am going to ask unanimous consent for 5 minutes to be accorded to the Senator from Texas, and then under——

Mrs. HUTCHISON. Mr. President, will the Senator yield and let me just ask if he would consider letting Senator DOMENICI finish with 3 minutes and then giving me my 5 minutes, and then I think perhaps Senator BYRD is going to ask for some time. So we could work something out so that everyone would have an opportunity with Senator WARNER as well.

Mr. DOMENICI. Do not ask for me to have 3 minutes because I want to use the regular order as best we can, and I need more than 3 minutes.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senate is now in a period of morning business.

Mr. COVERDELL. Let me ask unanimous consent that the hour of controlled business under the Senator from Georgia be expanded 5 minutes—and we talked to the other side of the aisle—so the Senator from Texas may finish her remarks. I will then ask unanimous consent that the period for morning business be extended until the hour of 5 with statements limited to 5 minutes each, which I believe will accord the Senators from Virginia and Florida their opportunity.

Mr. WARNER. And the Senator from Florida, Mr. GRAHAM.

Mr. COVERDELL. Yes. So I ask unanimous consent that the period I control be expanded for 5 minutes and that that time be dedicated to the Senator from Texas.

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

Mr. BYRD. Mr. President, reserving the right to object.

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

Mr. BYRD. And I shall not object, but I would like to be recognized following the distinguished Senator from Virginia and the Senator from Florida about whom he has referred. I would like then to be recognized for such time as I may consume. That time would be probably 30 minutes, 35 minutes, or some such. I want to speak about the great senior Senator from Georgia, who will be leaving us, and I do not want to be cramped for time. But I will not overstay my welcome on the Senate floor. So I would like to be recognized at that point for not to exceed such time as I may consume, which probably will not be more than 30 minutes, but it could be 35.

Mr. COVERDELL. If I might respond to the Senator from West Virginia, I do not know the purpose for which the leader asked for morning business to be extended until 5.

I am advised that is certainly appropriate, and I am glad to accord the Senator from West Virginia the appropriate time he is seeking.

Mr. BYRD. I thank the Senator.

Mr. WARNER. Mr. President, could the Chair restate the entire unanimous-consent request as it applied to the Senator from Texas, the Senator from Virginia, the Senator from Florida, and the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Chair will ask the Senator from Georgia to restate his unanimous-consent request.

Mr. COVERDELL. I am asking unanimous consent the time I control be extended 5 minutes to accord the Senator from Texas 5 minutes; following that unanimous consent, that 5 minutes be granted to the Senator from Virginia, followed by the Senator from Florida for 5 minutes, and then to be followed by the Senator from West Virginia for up to 30 minutes, and that the hour of morning business be extended until the hour of 5:30 with statements limited to 5 minutes each.

Mr. GRAHAM addressed the Chair.

Mr. BYRD. Mr. President, reserving the right to object, I do not want to be limited to 30 minutes. But I will be very considerate of the desires of others to speak.

Mr. COVERDELL. I would amend the unanimous consent to extend the Senator of West Virginia the time that he needs, but that there be a period of morning business to extend 30 minutes at the conclusion of his remarks with statements limited by each Senator to up to 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, reserving the right to object, and I hope not to, will the Senator from Georgia add at the end of the statement by the Senator from West Virginia 20 minutes. I had 20 minutes earlier in the day which was taken for another purpose. I would request 20 minutes at the conclusion of the Senator from West Virginia in morning business.

Mr. DOMENICI. Mr. President, reserving the right to object——

Mr. COVERDELL. I would have to check, I say to the Senator from Florida. I would have to check with the leadership before I could agree to that position. But I have agreed to the 5 minutes in accordance with the Senator from Virginia. The Senator is included in that.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. GRAHAM. Mr. President, I will withdraw my objection at this time, but I want to alert the Senate that at some time I will be reinitiating my request for 20 minutes for purposes other than that which I am going to speak in conjunction with my colleague and friend from Virginia.

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

GOOD FAITH NEGOTIATIONS

Mrs. HUTCHISON. Mr. President, I wish to commend the senior Senator from Wyoming for an outstanding job on a bill that really will put teeth in the laws against illegal immigration into our country. He has been working for months in a bipartisan way to make sure that before the end of this session we did a meaningful job of addressing a terrible problem in my State and for the whole country, and that is an influx of illegal aliens that is causing the taxpayers of my State and our country millions of dollars.

The senior Senator from Wyoming worked until late in the night last night trying to make sure that this bill stays together. All we have heard from the White House is that the White House objected to the Gallegly amendment, and beyond that would sign the bill that was indeed a bipartisan bill in both Houses of Congress.

Today, we have a change of mood, and all of a sudden now the bill that will stop, or at least give us a chance to stop, the illegal immigration into our country is now being held up by the White House saying, no, we want you to take out title V. Now, title V would, in fact, take out the enforceability of the welfare reform bill that also passed this body and this Congress overwhelmingly.

It is time for us to have an integrity in the system that says once you come to an agreement, it is an agreement, our word is good, and we go forward. We cannot have the goalposts changing every time we make an agreement. I believe that Senator LOTT has really tried to work with his colleagues on the other side of the aisle to offer them all of the options to do what is the responsible thing that we must do in order to fund Government before October 1 when the fiscal year ends.

A week ago, Senator LOTT asked Senator DASCHLE if he would like to have a continuing resolution offered in which there would be six amendments on each side, and then we would pass the continuing resolution that would fund Government. That was rejected. Then another offer was made. Let us start debate on Tuesday on a continuing resolution to make sure that we do the responsible thing and keep Government going. Unlimited amendments on either side, but we finish by Wednesday night. That was rejected. The last offer was a Department of Defense appropriations conference report that all the other spending bills that are now outstanding would be put together with, and that has not yet been accepted.

The time has come for it to be called what it is. That is a delay tactic, an inability to come to an end, a closure so

that we can all do what is responsible, and that is fund Government.

I think Senator LOTT is trying very hard. Senator HATFIELD was up until 4:30 in the morning this morning trying to negotiate in good faith with the White House and both sides of the aisle and both sides of this Capitol, trying to do the right thing, but has been thwarted at every step either by delay tactics during the process of handling the appropriations bills for the last few months or delay tactics right now.

Mr. President, we are trying. Our leadership is trying. We want a bill for illegal immigration that all of us have agreed to. Now is not the time for the White House to step in and change the level of negotiation. We were finished with negotiation. We agreed that the Gallegly amendment would be done separately. Now, all of a sudden, title V is supposed to be taken out of the bill and that takes a very important part out of the bill. I have a State that has 1,250 miles of border with Mexico. We are under siege, not only with illegal aliens but with drugs coming across the border and we need relief.

Mr. President, I know my time is up. I am asking that the President of the United States work in good faith with Congress. We are trying to do the responsible thing. We do not have much more time. We have made offers but have been unable to gain their acceptance. Mr. President, now is the time for responsibility on a bipartisan basis. It is a two-way street.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER and Mr. GRAHAM pertaining to the introduction of S. 2143 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM. Mr. President, I ask unanimous consent that, immediately upon the conclusion of the remarks of the Senator from West Virginia, I might have 30 minutes to speak on another subject.

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

The Senator from West Virginia is recognized for such time as he may consume.

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

TRIBUTE TO SENATOR SAM NUNN

Mr. BYRD. Mr. President, we are rapidly approaching that season when we shall witness the departure of many of our colleagues who have elected not to serve beyond this Congress.

Mr. President, I was the 1,579th Senator of 1,826 men and women who have served in the U.S. Senate from the beginning. I have seen many fine Senators come and go. As I think back over the years, something good might well have been said about most, if not all, of these Senators. We are prone, of course, to deliver heartfelt eulogies, speeches declaring our regrets that our colleagues choose to leave the service of this body.

About all of these Senators whom I have seen depart the Senate, some good could be said, unlike Lucius Aelius Aurelius Commodus, the Roman emperor who served from 180 to 192 A.D., one of the few Roman emperors about whom nothing good could be said.

I don't think that any of the Senators that I can recall at the moment who voluntarily retired with honor from this body were Senators about whom nothing good could be said. But shortly, we will witness the departure of one of the truly outstanding United States Senators of our time, and when I say "of our time," I mean my time as a Member of Congress for 44 years, a Member of this body for 38 years. The departure of SAM NUNN will be an irreparable loss. Someone might be able to take his place over a period of years.

I remember the death of Senator Russell, Richard Russell of Georgia, on January 21, 1971, 25 years ago. In the course of those 25 years, one-quarter of a century, I have to say that I have not seen the likeness of Richard Russell, except in Senator SAMUEL AUGUSTUS NUNN.

So it may be another 25 years, it may be 50 years before we see the likeness of Senator NUNN.

I pay tribute to this distinguished colleague who is retiring from the Senate after 24 years—illustrious years. There are many things that one can say about SAM NUNN, as he has been consistently productive, growing in stature year by year to become, without doubt, the leading Senate voice on national defense security and alliance issues—the leading voice. His accomplishments, of which there are many, are notable and derive from an approach to his work which is unfailingly thorough and well-focused. He is blessed with an exceptional intellect, and in Senator NUNN's case that sharp intellect combines with a much rarer talent for harnessing creative visions to practical techniques. SAM NUNN has been especially successful as a legislator in this body because of his ability to reduce complicated issues to an understandable scope, while avoiding oversimplification. Then he works patiently and persistently to build bipartisan support.

Indeed, his many ideas and initiatives are often shared and supported by his colleagues across the aisle. In a day when bipartisanship is as rare as platinum and gold and rubies, and certainly as valuable, SAM NUNN epitomizes that for which so many of us strive, and often fail to achieve—bipartisan consensus which the people so desire and which fuels large majorities behind legislative endeavors. The ingredients of vision coupled with practicality, and balance between liberal and conservative views, mark his spectacularly successful career as a Senator and are textbook examples for the younger Members of this body and the newer Members of this body in the years to come to heed and to emulate.

SAM NUNN hails from Georgia, where commitment to the Nation's defense runs deeply, and from whence some of our greatest legislators on national defense have emerged. He has upheld the great Georgia tradition so ably begun by his granduncle Representative Carl Vinson, with whom I served in the House of Representatives before coming to the Senate, and his predecessor, Senator Richard B. Russell.

While Senator NUNN has only served as the chairman or ranking member of the Armed Services Committee for 12 years, his record of achievement and the reverence in which he is held in this body are comparable to that—and I know—comparable to that of the great Russell. This is a feat of enormous distinction. The State of Georgia has to be extremely proud to have given such talented sons to our Republic, men who have so well borne the mantle of responsibility to protect the defense of our Nation and promote its fighting forces.

Now, if you ask SAM NUNN what he regards as the most important of his many, many achievements in affecting and directing U.S. policy in the national defense arena, I doubt—and I have never asked him this question—but I doubt that he would mention the more widely publicized of his achievements, such as his role in developing the Stealth fighter; or the many initiatives he authored to reduce the dangers of war in the Russian-American relationship; or the meaningful measures enacted to reduce and make safer the world's inventories of nuclear weapons and fissile materials; or even his role in broadening and deepening American leadership in NATO, in Bosnia, in the Persian Gulf, or in Haiti. It is in the less heralded, less glamorous but critically important area of the morale and welfare of our men and women in uniform that is at the top of the list that SAM NUNN might himself cite as his most noteworthy achievement in the defense area.

Senator NUNN was the key player in meeting the needs of the All Volunteer Force so that we could attract and retain the kind of men and women who could effectively manage and lead our forces across the globe in all environments. He constructed a benefits package for the men and women who fought so well in the Kuwait Desert in Operation Desert Storm. He crafted the post-cold war transition measures that address the needs of our military personnel as they make their way from the front lines of the cold war back into American civilian society.

He has worked tirelessly to instill a sense of pride and loyalty in our uniformed men and women that is of such great value to the Nation. As Edmund Burke said on March 22, 1775,

It is the love of the people; it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and navy, and infuses in both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber.

Now I have been privileged to serve with SAM NUNN as a member of the Armed Services Committee and with SAM NUNN as its leader. Senators are not renowned for their managerial skills, but the Armed Services Committee under SAM NUNN's leadership has been superbly managed.

In my 44 years in Congress, I have yet to see a chairman of any committee who excelled SAM NUNN. In my humble judgment, he is the best committee chairman that I have ever seen in these 44 years in Congress, including myself. I worked hard at being a good chairman. But Senator NUNN, to me, represents the ideal, the model, the paragon of excellence as a chairman.

Unusual among authorization committees in the Senate, he produced, from 1987 through 1994, eight straight authorization acts, each of which continued major initiatives to build a better managed, sounder Department of Defense. He was the key figure behind the so-called Goldwater-Nichols Reorganization Act, which decentralized power in the armed services, giving more on-the-ground authority to our unified commanders in the geographic areas where they had to prepare forces to fight in various contingencies. He developed the legislation which produced the Defense Base Closure and Realignment Commission, which cut through the political snarls involved in closing bases, and has been a most effective tool in downsizing the DOD establishment in a fair and orderly way.

Over the years our uniformed leaders have consistently looked to SAM NUNN as their champion, as a strong but sensitive force, who empathized with their special needs and could be counted on to take the kind of action appropriate to best enhance the morale of the men under their command. He did not fail them.

Perhaps some of the most creative ideas that SAM NUNN willed into reality came in the knotty area of reducing the quantum of danger in the Russian-American relationship. He championed, together with JOHN WARNER, programs to increase communication between the American and Russian leadership, and thus reduce the possibilities of tragic, accidental nuclear war. Together with RICHARD LUGAR, he crafted a successful program to dismantle nuclear weapons possessed by the states of the former Soviet Union. He led the Senate Arms Control Observer Group for many years, as my appointee to that group when I was Majority Leader, traveling frequently to Geneva, leading delegations of Senators to ensure that progress on the INF and START Treaties had the knowledge and support of the United States Senate. He traveled extensively to Russia, and in turn Russian legislative leaders traveled to the United States, to exchange views and develop cooperative solutions to problems, thereby increasing the level of confidence and understanding between these two superpowers. Lately he has developed additional initiatives, again with a leading Republican counterpart, Senator DOMENICI, to tackle the problem of terrorist actions against the United States. All in all, SAM NUNN, when he leaves this Chamber and walks out of this door for the last time as a Member of this body, can take immense pride in his long, intense and patient efforts in the superpower relations arena. Those hard-won initiatives have had a substantial impact on the measure of safety in our world. It is indeed no exaggeration to say that the world today is a safer place in part because of the monumental efforts of one man, the senior Senator from the State of Georgia—SAM NUNN.

These achievements and the quality of his dedication and work on defense, alliance and international issues, ranging from NATO to arms control and reduction, anti-terrorism, and joint U.S.-Russian threat reduction and communications measures have propelled his glorious reputation far beyond the Senate. He is known internationally and he is viewed universally as an expert in the defense field. He is well known in official circles around the globe and is widely sought for his wise counsel.

Is it not remarkable that in my time there would have been two chairmen of the Senate Armed Services Committee, two "tall men, who lived above the fog in public duty and in private thinking"—Senator Richard Russell and Senator SAMUEL NUNN—both experts in the field of national defense. Both of whom sought for their wise counsel,—sought out on this floor,—sought out before the bar of the Senate, in the well, sought out in foreign capitals for their wise counsel.

It is not an overstatement to say SAM NUNN's reach and impact have been international and characterized by workable, sound proposals and brilliant judgment. The global scope of his work has set him apart from the vast majority of men who have served in this body and is a testimony to his dedication to the addressing of the burning issues of sanity and order in our world today.

While SAM NUNN will undoubtedly be remembered for his Senate service in the area of national defense, as if that were not enough, his energy and creativity have also been evident in many other areas. The range of his thinking and his talents as a legislator and policy maker encompass everything from health care, to student loans, to insurance industry reform. In his farewell address, announcing his retirement, in Georgia on October 9, 1995, he dwelled extensively on the need for America to put our youth first, to work on protecting our children from street violence and drugs. He spoke eloquently of the need to reverse the saturation of our TV airwaves with programs of sex and violence. He focused on the need to reinvigorate our educational system in order to reincorporate great numbers of American citizens back into the working culture of our nation. He has developed successful legislation to lay the groundwork for a nationwide "civilian service corps" by offering education benefits in exchange for public service. As the cochairman of the Strengthening of America Commission, a bipartisan group of business, educational, labor and academic leaders, he has proposed an impressive plan to make radical changes in the income tax code to refocus our economy on savings and investment and away from consumption.

Most importantly, and as my fellow Senators well know, SAM NUNN's success is in large part attributable to his hard rock integrity.

A religious man, he does not go around wearing his religion on his sleeve; he does not go around making a big whoop-de-do about his religion, but he is a religious man, a moral man. SAM NUNN is known as a man whose judgment can be trusted. How many times have I heard Senators come to the Senate floor to vote on a measure and ask: "How is SAM voting on this one?" He is a leader in this body, in spite of the fact that he has not especially sought to lead. He has not been elected to a leadership position, but he has grown into a leadership position. He is a natural leader. His is the best type of leadership, because it is a leadership that is born of strong character. Horace Greeley said: "Fame is a vapor; popularity an accident; riches take wings. Those who cheer today, may curse tomorrow. Only one thing endures: character."

SAM NUNN epitomizes that great trait, character. The Senate will feel the loss of SAM NUNN and feel it deeply. His legacy and achievements certainly will grow with time. I am personally deeply sorry that he has chosen to go. He will leave an empty place in the Senate.

Napoleon rejoiced that the "bravest of the brave," Marshal Ney, had escaped and had returned across the Dnieper River, even though he had lost all of his cannons. Napoleon ordered that there be a salute to celebrate the escape and the return of Ney. And he said, "I have more than 400 million francs in the cellar of the Tuileries in

Paris, and I would have gladly given them all for the ransom of my old companion in arms."

Had SAM NUNN been an officer in the Grand Army of France, Napoleon would have given everything he possessed for another SAM NUNN.

His great natural talents will continue to bring him to the forefront of the national policy discussion, and he will, I know, continue to achieve great things in a variety of new settings.

I have never really felt about a man in the Senate—other than Senator Richard Russell—as I have felt about SAM NUNN. I was the majority whip in the Senate when SAM NUNN came to the Senate, and I urged that he be placed on the Senate Armed Services Committee. As a member of the Steering Committee, I cast my vote to put SAM NUNN on that committee. That is where he wanted to serve. I watched him grow. I have had some differences, from time to time—minor, of course—with SAM on some issues. That is not the point. SAM has fulfilled my idea of what a Senator ought to be.

There were 74 delegates chosen to attend the Constitutional Convention. The Convention met behind closed doors from May 25 to September 17, 1787. Fifty-five of those 74 delegates who were chosen participated, and 39 of the 74 signed the Constitution of the United States. I can see in my mind's eye a SAM NUNN in that gallery. I might well imagine that, as they met from day to day, if SAM NUNN had been a participant, they would have come, as they come here when Members of this body gather in the well, and asked, "What does SAM NUNN think about this?" I have no difficulty in imagining that. In such an august gathering as was that Convention, which sat in 1787, with George Washington, the Commander in Chief at Valley Forge and the soon-to-be first President of the United States, I can imagine that it would have been the same there. They would have said, "What does SAM NUNN think? How is he going to vote?"

The First Congress was to have convened on March 4, 1789. And only 8 Senators—less than a quorum—of the 22 were there on March 4, 1789. Five States were represented—New Hampshire, Connecticut, Massachusetts, Pennsylvania, and Georgia. And the Senator from Georgia who attended that day was William Few.

It could very well have been SAM NUNN as a Member of that first Senate, serving with Oliver Ellsworth, Maclay and Morris, and others. And as they met to blaze the pioneer paths of this new legislative body, the U.S. Senate, I have no problem in imagining that, often, those men would have turned to SAM NUNN and said, "How are you going to vote, SAM?" "How is SAM going to vote?"

I think every Member of this body shares with me that feeling about SAM NUNN. He could have been an outstanding U.S. Senator at any time in the history of this Republic—not this democracy. When the Convention completed its work, a lady approached Benjamin Franklin and said, "Dr. Franklin, what have you given us?" He didn't answer, "A democracy, Madam." He said, "A republic, Madam, if you can keep it."

Now, what is there about SAM NUNN that makes him this kind of man? He is not the typical politician that one conjures up in his mind when thinking about Senators and other politicians. Senator NUNN is not glib. He doesn't jump to hasty conclusions.

He does not rush to be ahead of all of the other Senators so that he will get the first headline. He thinks about the problem, and he logically, methodically, and systematically arrives at a decision. Then he carefully prepares to put that decision into action.

I suppose that had he lived at the time of Socrates, who lived during the chaos of the great Peloponnesian wars, SAM would have been out there in the marketplace debating with Socrates, about whom Cicero said he "brought down philosophy from Heaven to Earth." SAM would have been a hard man for Socrates to put down because he has that talent, that knack of thinking, an organized thinking, and the consideration of a matter logically, carefully, and thoroughly. He is truly a man for all seasons. His wisdom, his judgment, and his statesmanship have reflected well on the profession of public service at a time when fierce "take-no-prisoners politics" has embroiled the Nation to alarming degrees.

Napoleon did not elect to go into Spain, and Wellington was concerned that Napoleon himself might lead. Wellington later told Earl Stanhope that Napoleon was superior to all of his marshals and that his presence on the field was like 40,000 men in the balance. SAM NUNN, the 1,668th Senator to appear on this legislative field of battle, is like having a great number in array against or for your position.

I was looking just this morning over the names of those Senators who are leaving, and examining their votes on what is called pejoratively the Legislative Line-Item Veto Act of 1995. Of those Senators who are leaving, seven voted against that colossal monstrosity, for which many of those who voted will come to be sorry. If this President is reelected, he will have it within his power to make them sorry. He is just the man who might do it.

Among the departing Senators, SAM NUNN is one of those who opposed that bill. Senator HEFLIN, Senator JOHNSTON, Senator PELL, Senator PRYOR, Senator COHEN, Senator HATFIELD, and Senator NUNN voted, to their everlasting honor, against that miserable piece of junk.

Just wait until this President exercises that veto and see how they come to heel—h-e-e-l. They will rue the day. But SAM NUNN voted against it.

For the outstanding quality of his character as well as for the brilliance of his service, this Senate and the Nation are eternally in his debt. He will always command, in my heart and in my memory, a place with Senator Richard Russell.

God, give us men. A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagog
And damn his treacherous flatteries without winking.
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo. Freedom weeps,
Wrong rules the land and waiting justice sleeps.
God give us men.
Men who serve not for selfish booty,
But real men, courageous, who flinch not at duty.
Men of dependable character; men of sterling worth.
Then wrongs will be redressed and right will rule the earth.
God, give us men.

Men like SAMUEL AUGUSTUS NUNN.

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

The PRESIDING OFFICER (Mr. MCCONNELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. Mr. President, if Senator NUNN would care to make any comments, I would be pleased to defer to him.

Mr. GRAMS. Will the Senator yield for a moment? I ask unanimous consent to follow the Senator's 30 minutes with 15 minutes.

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

Mr. NUNN. I am left speechless after listening to my friend ROBERT BYRD. So I will reserve my time. Thank you.

CONFERENCE REPORT TO ACCOMPANY ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. GRAHAM. Mr. President, we will soon begin a debate on the conference report entitled "Illegal Immigration Reform and Immigrant Responsibility Act of 1996." I am concerned that, when we commence that debate, we are not going to be in as advanced a position as we should be, for several reasons—two in particular.

One of those is that, when this legislation was considered in the House of Representatives, a provision was attached which would have given to individual States the prerogative of denying public education, elementary and secondary education, to the children of illegal immigrants. That provision became so inflammatory that it tended to focus total attention on this legislation on that single provision. That provision has now been eliminated. It has been withdrawn. Therefore, we are now focusing for the first time on the totality of this legislation.

A second reason why we are not in as advanced a position as we should be for legislation which is as significant as this, has to do with the process by which this conference committee prepared its report. First, it was an elongated process that took many weeks and months to reach the conclusion that is now before us. But it was also essentially a closed process. Not only were many of the members of the conference committee not given the opportunity to participate, at the conclusion of the conference they were not even allowed to offer amendments to try to modify provisions which were found to be objectionable. So we have a product today which has not had the kind of thoughtful dialog and debate which we associate with a conference report which is presented to the U.S. Senate for final consideration.

For this reason, I joined those who urge that objectionable provisions in this act—and I will use the bulk of my time to attempt to outline what I consider some of those objectionable provisions—be excised, be eliminated, from this conference report, or, failing to do so, then that the conference report, regrettably, be rejected.

I speak to this position based on some principles of fundamental fairness to all of those who will be affected by this legislation entitled "Illegal Immigration Reform and Immigrant Responsibility Act of 1996." I speak not only for the legal immigrants who will feel the full weight of this report, which is supposed to deal not with legal immigrants, but, by its title, with illegal immigration; but I also speak of the apparent, and not so apparent, adverse effects that this will have on the States and local communities in which most of the persons affected live.

This Congress has spent an enormous amount of time discussing immigration. I fully support the mandates which were passed to help assure that individuals do not enter this country illegally. The U.S. Government has a fundamental responsibility to enforce the laws which this Congress passes. Unfortunately, we have failed to do so as it relates to our immigration laws, and, thus, we have millions of illegal aliens within our society.

I am proud of the fact that this legislation includes steps such as strengthening our Border Patrol. These are the hard-working officers who are our first line of defense against illegal immigration. I do not contest, but, in fact, fully support, better enforcement and funding to prevent illegal immigration, including those steps that would demagnetize jobs as a reason why illegal aliens come to the United States.

Our Government has brought an unfair and strenuous burden to many States in the form of allowing thousands, in some cases millions, of illegal immigrants to enter within their borders. Florida has been particularly affected because of its unique geographic location, its diverse population, its temperate climate.

Our Government, for several decades, has made Florida the gateway to immigrants arriving from South America and the Caribbean basin. A large majority of those who seek to be called Americans are Floridians. These new arrivals, those who come legally, those who come playing by the rules, are, in large part, law-abiding citizens. They work hard, they pay taxes, they ask nothing of our Government other than the opportunity to eventually be called a citizen of the United States of America.

But on occasion, as may happen to native-born Americans, a circumstance arises where assistance is needed. In the past, our State and local communities have scraped by doing all that was possible to assist these newcomers. The Federal Government was frequently a partner of States and communities in providing assistance in unexpected emergency conditions.

Mr. President, we are now faced with the prospect of trying to continue our humanitarian efforts without that Federal partner and, thus, with even fewer resources available from the National Government a greater demand for those resources from the States and local communities which are affected.

In some ways, we have come to the conclusion that eliminating even minimal benefits to legal immigrants will somehow solve our illegal immigration problem. This is not true. In reality, it only hurts those who follow the rules, those who made every effort to enter the United States in a lawful, orderly, documented manner, and it hurts our communities, it hurts those cities and towns that provide services to legal immigrants and now will receive no assistance from the Federal Government.

This, Mr. President, is wrong. We speak so often of the Federal-State partnership. The Federal Government, in this case, is no longer a partner to our States and communities. This is unfair—and for many reasons, of which I will only discuss a few this evening.

It is within the purview and responsibility of Congress to act to end and to avoid further extension of this unfairness. My State of Florida brought suit in the Federal courts, brought suit on the basis that our State had been asked to shoulder hundreds of millions of dollars of responsibilities for legal and illegal immigrants, responsibility which should have been a national obligation.

As the 11th Circuit Court of Appeals explained in its 1995 decision, Chiles versus the United States:

> The overall statutory scheme established for immigration demonstrates that Congress intended whether the Attorney General is adequately guarding the borders of the United States to be "committed to agency discretion by law" and, thus, unreviewable. Florida must seek relief in Congress. We conclude that whether the level of illegal immigration is an "invasion" of Florida and whether this level violates the guarantee of a republican form of government presents nonjusticiable political questions.

Essentially, what the court was saying is, do not come to us for justice. You must seek justice in the political arm of the Federal Government, the Congress of the United States.

I state tonight, Mr. President, that the legislation which is before us is not just and does not treat our communities and our States fairly.

What are some of the bill of complaints against this legislation, that it is unfair to the States and communities of America? Let me list a few of those complaints.

This legislation extends a concept which has been in our immigration law and which was used extensively in the immigration changes made as part of the welfare reform bill passed earlier in this session of Congress, referred to as "deeming."

What is deeming? Deeming, essentially, is a concept that states that the income of the individual who sponsored a legal immigrant into the United States is deemed—d-e-e-m-e-d—deemed to be the income of the person who was sponsored. This concept of deeming is now applied to persons who came into the United States in the past, when the concept behind the law of sponsorship was different, where the sponsor's affidavit of sponsorship was not legally enforceable.

The rules have changed on these law-abiding citizens in the middle of the game. The sponsor who put his name behind a legal immigrant coming to the United States under the rules that existed up to 5 years ago is now being told retroactively, "You have just taken on very significant new financial responsibilities."

Under the welfare bill, these new deeming restrictions only apply to newly arrived immigrants. Under this conference report, deeming is applied retroactively to legal immigrants who came to the United States within the last 5 years. As a result, sponsored legal immigrants who came into the United States under the old rules stand to lose access to dozens of programs, including prenatal care, nonemergency Medicaid, Head Start and job training.

These provisions will require a further cost shift to the States who will

now have to shoulder the burden of these Federal programs which will no longer be available.

Another item in that bill of particulars of unfairness is Medicaid. Even though the welfare bill contains no immigrant restrictions on the use of emergency Medicaid, the conference report provides that if a legally sponsored immigrant has an emergency and uses Medicaid, the sponsor becomes liable for the entire cost of care, without limitation.

What does this mean, Mr. President? This means that if a sponsor has brought in a legal immigrant and that legal immigrant is hit by a truck or contracts cancer or any of the other items that might result in a serious emergency circumstance, the sponsor would be legally responsible for all of those medical costs. Realistically, most sponsors would not be able to pay, and, therefore, what will happen? This will just become another uncompensated burden on the hospital or health care provider.

While I support the idea that sponsors should be required to provide housing, food, or even cash assistance to immigrants who have become unable to provide for themselves, even the most responsible sponsor may not always be able to finance health care, care for illness or serious disease or injury.

Mr. President, as I said, we are going to apply, retroactively, standards to those persons who have sponsored legal aliens, such as their parents or a child, into the United States and now, retroactively, are going to have to take on additional responsibilities which were unknown to them at the time that they entered into that sponsorship relationship.

Also, I will discuss some of the changes which have been made in Medicaid, the program that provides health care to indigent Americans, which today is available to legal—legal—aliens. I underscore that difference between those persons who are here because they follow the rules and those persons who are in the country because they broke the rules. We are talking now exclusively about people who are here legally.

One of the changes that has been made in the Medicaid Program states that a sponsor, including those who are being swept up in this retroactive provision, will now have to be financially responsible for the emergency medical services provided under Medicaid to those persons who they have sponsored into this country. If their mother that they sponsored contracts cancer, or a child is hit by a car and suffers a serious injury, those kinds of costs now will become the responsibility of the sponsor. Even more egregious, if the sponsor is unable to meet those expenses, it then becomes an obligation of the provider to accept those costs as unreimbursed medical expenses. In most cases, they are going to end up being the unreimbursed medical expenses of an emergency room in a public hospital.

One final part of this is that if the sponsor can't pay, and if the person who they sponsored can't pay, then that sponsored individual will be barred from becoming a naturalized citizen of the United States until the bill is paid, which means that this child, who may have suffered this injury in youth, is going to be permanently precluded from becoming a U.S. citizen, unless they are able to achieve a financial status to pay off this emergency medical bill.

A third problem with this legislation, Mr. President, relates to the treatment of communicable diseases. This conference report, I find, unbelievably, provides that under no circumstances will the Federal Government provide funding for the treatment of HIV and AIDS-infected patients who are legal immigrants. This, I thought initially, this must have been a misprint. But when you read the conference report on page 239, it states explicitly,

> The exception for treatment of communicable diseases is very narrow. The managers intend that it only apply where absolutely necessary to prevent the spread of such diseases. The managers do not intend that the exception for testing and treatment for communicable diseases should include treatment for the HIV virus or Acquired Immune Deficiency Syndrome.

I represent a State where we have many persons who come from areas of the world—many within this hemisphere—which have a high incidence of HIV and AIDS. What this bill says is if a person is in this country as assailees, refugees, parolees, or whatever status, is found to have HIV or AIDS, the Federal public health service cannot use its resources to treat those persons. Mr. President, I find this to be unbelievable. Are we just going to ignore this deadly disease and hope that, for humanitarian reasons, or public health concerns, the State or local agency will again shoulder this national obligation for persons who are in this country under national immigration laws?

The Medicaid provisions, the deeming provisions, and sponsor affidavits are currently nothing more than a means of shifting costs to States, local government agencies, and our Nation's hospital system. Simply, if people are sick and cannot afford to pay for coverage of a disabling condition, somebody will absorb those costs. The question is whether the Federal Government will help to pay a portion of that cost, or whether such cost will be shifted entirely to States, local governments, and health care providers.

This bill does not protect the health care providers, even though it is the Federal Government's health care policy which requires the health care provider to render such medical assistance.

The Federal Emergency Medical Treatment and Labor Act requires that all persons who come to a Medicare-participating hospital for emergency care be given a screening examination to determine if they are experiencing a medical emergency, and if they are found to be experiencing such a medical emergency, that they receive stabilizing treatment before being discharged or moved to another facility.

Federal law requires all hospitals that have emergency rooms, that receive Medicare participation, must provide those services, without regard to the ability of the person who has presented themselves for such care to pay. And now we are saying that the Federal Government is going to be a "deadbeat dad" by sticking those health care providers with the full cost, without a Federal sharing and participation.

Mr. President, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities, has written on April 25 of this year, in anticipation of just exactly what is before us now, with the following statement:

> Without Medicaid eligibility, many legal immigrants will have no access to health care. Legal immigrants will be forced to turn to State indigent health care programs, public hospitals, and emergency rooms for assistance, or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone.

For the Medicaid caseworker as well as all other State and Federal programs he or she must now learn immigration law as well and the Medicaid system.

As a study by the National Conference of State Legislatures notes, this conference report would require an extensive citizenship verification made for all applicants to the Medicaid Program.

In addition to the costs to determine eligibility, States will also have infrastructure, training and ongoing implementation cost associated with the staff time needed to make a complicated deeming calculation. The result will be a tremendous, costly and bureaucratic unfunded mandate on State Medicaid Programs.

Mr. President, another item in the bill of particulars of unfairness of this immigration bill relates to parolees and their inability to work. I would put this in the specific context of an agreement which the United States had entered into with Cuba.

Under that agreement which was intended to avoid another repetition of the mass rafting explosion which we have experienced on several occasions since Fidel Castro came to power in Cuba, the United States now allows 15,000 Cuban immigrants per year to enter the United States. Approximately 10,000 of those who have arrived per year under this agreement have been under the category of parolees.

Under this bill, as parolees they will be prohibited from working in most jobs 1 year after they arrive here. How can that be? It can be because the conference report provides that after 1 year of entry into the United States, a person who is legally in this country, classified as a parolee for humanitarian reasons, would be ineligible to obtain or maintain the following:

They could not receive any State or Federal grants; any State or Federal loan; any State or Federal professional license; and, believe this, Mr. President: They could not receive a State driver's license or a commercial license.

Where are these legal immigrant parolees going to work without a driver's license, without a work permit, without a commercial license? Who will assume the burden of caring for these legal immigrant parolees who are in our country? Of course, the cost of their care will shift to the local community, even though it was through Federal Government action—and in the case of the United States-Cuban agreement, Federal Government foreign policy considerations, which brings them to this country in the first place, and then tells them that they cannot drive and that they cannot hold a job.

The conference report that is before us is a huge cost shift to State and local governments that will impose an administrative burden and huge unfunded mandate on State governments to verify eligibility for applicants.

Mr. President, one of the first priorities of this 104th Congress was S. 1, the Unfunded Mandate Reform Act of 1995. It was a top priority of the House of Representatives. It passed both bodies in the first 100 days of this session.

The purpose section of the Unfunded Mandate Act stated that the:

> Purposes of this act are to strengthen the partnership between the Federal Government and State, local, and tribal governments to end the imposition in the absence of full consideration by Congress of Federal mandates on State, local, and tribal governments without adequate Federal funding.

Mr. President, this conference report breaks every premise and breaks every basis of the unfunded mandate law because this conference report on immigration requires all Federal, State, and local means-tested programs, as well as programs such as State driver's licenses, State licensing departments, for State occupational licenses as well as any grant or funding to first determine whether the individual applying is an eligible immigrant.

The National Conference of State Legislatures just yesterday, September 26, 1996, indicated that the mandates of this conference report will:

> impose new unfunded mandates on State and local governments regarding deeming requirements for determining immigrant eligibility for all Federal means-tested programs. These provisions create new unfunded Federal mandates, defying the intent of the S. 1, the Unfunded Mandates Reform Act.
>
> This bill requires States to deem many immigrants currently residing in the United States who do not have enforceable affidavits of support. These requirements will place an excessive administrative burden on States by shifting massive costs to State budgets. As we have consistently stated on numerous issues, if the Federal Government expects States to administer Federal programs related to Federal responsibilities, full Federal funding must be provided.

What are some examples of this massive shift? Let me use the example of my own home State of Florida.

For professional and driver's licenses, the State of Florida estimates that it will cost approximately $31 million to verify and recertify 13.7 million driver and professional licenses. This figure does not include State administration and initiation costs, nor does the figure include the amount it will cost to verify new applications for these licenses. This is just the cost to verify those that are already outstanding.

Occupational licenses: To determine eligibility for occupational licenses based on immigration status, it is estimated that $16 million annually will be passed on to the small businesses of my State of Florida.

AIDS patients: Jackson Memorial Hospital in Miami alone cares for between 1,500 and 2,000 noncitizen AIDS patients annually. The estimated cost to treat noncitizen AIDS patients for this one hospital will be at least $4 million a year.

Mr. President, in summary, this conference report violates basic concepts of fairness and adds new and, in many cases, retroactive restrictions on legal immigrants. It imposes cost shifts to local and State governmental agencies in order to comply with its unfunded mandates. It violates the legislation which we passed and which we have taken great pride in: The Unfunded Mandate Reform Act of 1995.

If this is not an unfunded mandate, what could be an unfunded mandate?

As currently drafted, the conference report would have the following negative consequences: It shifts costs to States, local governments, and hospitals; it imposes an administrative unfunded mandate on State Medicaid programs; and it is not cost effective.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately after my remarks a series of documents, including letters from the National Association of Counties, from the National Conference of State Legislatures, editorials which have appeared criticizing sections of this immigration conference report, and a letter from the Governor of Florida outlining the impact that this will have on our State.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, for the reasons stated, I urge that this Senate, before it takes up at this late hour important legislation which will have the kind of far-reaching effect that this immigration bill will have, that we consider carefully the impact that this is going to have on the States and communities that we represent.

I urge that we either delete those provisions from this conference report or that the conference report be rejected.

I thank the Chair.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

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

EXHIBIT 1

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, September 26, 1996.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing to urge you to exclude from the conference agreement on immigration (H.R. 2202) provisions that mandate new federal requirements for certificates and drivers licenses, and adds new deeming requirements to determine immigrant eligibility for federal means tested programs. The National Association of Counties (NACo) considers these provisions to be unfunded mandates as a well as a preemption of local authority. While NACo shares the goal of solving the problems posed by illegal immigration, we urge you to oppose the bill if these provisions are not deleted from the conference report.

Although the birth certificate and drivers' license provisions have improved somewhat by extending the implementation date and making a general reference to federal grant funds, these changes are minimal. Extending the implementation date may avoid the Unfunded Mandates Reform Act threshold of $50 million a year, but it masks the fact that county and state governments will still have to bear the brunt of these expenses. Additionally, these are documents that fall clearly under the jurisdiction of state and local governments. Mandating federal standards on these documents preempts state and local authority and is a hardship on citizens and noncitizens alike.

The deeming requirements in the conference agreement go beyond the stringent requirements in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193). This law already made the affidavits of support enforceable and extended deeming to federal means tested programs for immigrants with new affidavits of support. The conference agreement, however, would also applying deeming to current legal residents who do not have enforceable affidavits of support. By making this retroactive change, the bill places additional administrative burdens on counties and shifts more costs from the federal programs to county general assistance programs.

NACo appreciates your consideration of these issues. We urge you again to removed these provisions from the conference agreement, or vote against the legislation if they continue to be included.

Sincerely,

LARRY NAAKE,
Executive Director.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, September 26, 1996.

DEAR SENATOR GRAHAM: On behalf of the National Conference of State Legislatures,

we again urge you to exclude from the conference agreement on immigration legislation, H.R. 2202, provisions that (1) federalize the current state and local driver's license and birth certificate issuance process and establish federal document content standards for both, and (2) impose new unfunded mandates on state and local governments regarding deeming requirements for determining immigrant eligibility for all federal "means-tested" programs. These provisions create new unfunded federal mandates, defying the intent of S. 1, the Unfunded Mandates Reform Act. They unnecessarily preempt traditional state auhtority. The provisions also create a "one size fits all" administrative process, contradicting the entire spirit of devolution. Furthermore, NCSL believes that these provisions will create an identification nightmare for citizens and legal immigrants. We share with you the goal of managing and resolving issues regarding illegal immigration. However, should these provisions remain in the conference report, NCSL urges you to to oppose the bill.

We have noted in previous communications that federalization of the driver's license and birth certificate processes is unnecessary, inappropriate and a misguided intrusion into a traditional state and local government responsibility. The conference agreement does improve on language from S. 1660, allowing states to be exempted from using Social Security Numbers on driver's licenses if they satisfy certain federal requirements, moving the implementation date to the year 2000, and alluding to some federal grant funds that may be available to help states pay for the new mandates. However, these are minimal changes at best. We see no compelling public policy reason for the federal government to strip states of their authority regarding driver's licenses and birth certificates nor to endorse an identification mechanism fraught with potential for fraud and abuse. The bill still places enormous unfunded federal mandates on state and local governments.

The deeming requirements in the immigration reform legislation go well beyond those in the recently enacted welfare reform legislation. The welfare reform law already makes new affidavits of support legally enforceable and extends deeming requirements to all federal means-tested programs for sponsored immigrants with the new affidavits. This bill requires states to deem many immigrants currently residing in the U.S. who do not have enforceable affidavits of support. These requirements will place an excessive administrative burden on states and shift massive costs to state budgets. As we have consistently stated on numerous issues, if the federal government expects states to administer federal programs related to federal responsibilities, full federal funding must be provided.

We appreciate your consideration of our positions. We urge you again to exclude the aforementioned provisions from any conference report or oppose the report should they be included.

Sincerely,

WILLIAM T. POUND,
Executive Director.

THE GOVERNOR OF
THE STATE OF FLORIDA,
September 23, 1996.

Hon. BILL MCCOLLUM,
House of Representatives,
Washington, DC.

DEAR BILL: I'm pleased to hear that you and Clay Shaw are conferees on the comprehensive immigration bill (H.R. 2202) as immigration policy certainly continues to be of major importance to Floridians.

We've previously discussed my opposition to provisions which deny critical assistance to legal tax paying residents of this country who have come here through the legal process and have been law abiding members of our society. As you're well aware, I have been particularly concerned about these provisions and their impact on our Cuban community and am still hopeful that Cuban/Haitian entrants will continue to be given access to all programs as they were under Fascell/Stone. The fiscal impact of the new restrictions on our State and local governments is still being assessed but will obviously be an additional burden.

However, I want to comment on what I see as major conflicts and discrepancies in this conference version language. It appears that the language of H.R. 2202 prohibiting any public benefit to certain legal immigrants is even more restrictive than the new welfare law which as a significant impact on Florida and other states with large immigrant populations.

It has been over month since the President signed the welfare bill into law. In those weeks, Florida has moved aggressively forward in preparing its state plan and has submitted it to HHS in order to begin implementation by October 1. We have made every effort to provide for a reasonable transition to allow affected families to explore their options and make other arrangements for future needs. Further sweeping restrictions for legal immigrants will require more alterations in administrative processes and will certainly complicate and frustrate an orderly implementation of the law and create disruption in medical care, children's services and other programs in our State.

I certainly understand and appreciate some of the enforcement provisions of the bill which are directed at controlling immigration. As you know, Florida has recently entered into a unique partnership with the federal government to combat illegal immigration—the Florida Immigration Initiative—and continues to strive to assist where the State has a role in controlling our borders.

It is my hope that you and the other conferees will focus on these enforcement tools and delete the provisions restricting assistance to legal immigrants in light of the welfare reform restrictions which are already being interpreted and acted upon in many instances.

I appreciate your continued attention to our concerns in Florida. Please call on me if I can be of any assistance to your efforts.

With best regards, I am

Sincerely,

LAWTON CHILES.

STOP THE IMMIGRATION BILL

(By The Miami-Herald)

Republicans in Congress eliminated one of the more onerous provisions of the immigration bill yesterday. Resisting pressure from presidential hopeful Bob Dole, they struck out language that would have kept the children of illegal immigrants out of public schools.

It was a wise and humane move, but not nearly wise nor humane enough: The deletion simply turned a terrible, mean-spirited bill into a very bad one.

It is every country's duty to control its borders and to insist on orderly immigration, but this bill oversteps duty. Its most xeonophobic provisions subvert cherished American traditions, including the offer of asylum to the persecuted and the guarantee of equal rights to all.

The bill would summarily—without meaningful access to counsel—exclude asylum seekers who arrive in the United States undocumented. This is heartless. It also violates our international obligations, established by treaty, regarding refugees.

Men and women fleeing oppression are often forced to seize the moment. They don't have the leisure to gather visas and passports. They arrive fearful and scared; often they are unable to speak English well enough to make their plight understood. The United States takes in a tiny share of the men and women who ask for asylum across the world. Last year, it amounted to less than 1 percent of asylum seekers. We can afford to help them, and we should be glad to do it.

The reunification of families divided by legal immigration would also be encumbered by the bill, which requires sponsors—to have incomes significantly higher than present law demands.

In addition, the bill goes well beyond the recently enacted welfare reform legislation in limiting the access that legal immigrants have to government programs. For example:

Legal immigrants would be deported if they receive certain types of government assistance—child care and housing among them—for more than 12 months during their first seven years in the United States.

After a year in the United States, people who have been paroled and who are not yet legal residents—would become ineligible for means-tested assistance, as well as for grants, professional or commercial licenses, even driver's licenses.

These provisions make the immigration bill unacceptable. It deserves a veto. President Clinton should not try to wash his hands of responsibility, as he did with the most Draconian elements of last summer's welfare reform. That bill was not perfect, he essentially said then, but it was the best we could.

The immigration reform is certainly not the best we can do, and we should not settle for it.

IMMIGRATION POLITICS

In an effort to salvage the illegal immigration reform bill, congressional Republicans finally backed off their plan to penalize the school children of illegal immigrants—and bucked Bob Dole, their presidential candidate, in the process. Unfortunately, the bill they struggled to save is still a severely flawed piece of work.

Though the proposal to allow states to deny public education to illegal immigrants was a cornerstone of the House-passed version, it faced a Senate filibuster and a presidential veto. Anxious to save both face and the remainder of the bill, Republicans agreed to uncouple the education proposal from the rest of the bill and vote separately on each.

Dole belatedly endorsed the move in a letter to conferees. But earlier this month, he tried to strong-arm his former colleagues into retaining the controversial amendment in an attempt to torpedo the immigration reform bill—one he had supported when he was in the Senate—to keep Clinton from scoring political points. That's not just hard-ball. That's irresponsible. Congressional Republicans deserve some credit for defying Dole, even if they acted out of political self-interest. The Republicans want to take an immigration bill, even a watered-down one, back home to their constituents before election time.

Though improved, the bill has other problems which still merit that presidential veto. The conference report gives virtually unchecked authority to the Immigration and Naturalization Service to turn away immigrants, with false papers or none, who seek asylum from genocide, political death squads or other forms of persecution. Though the conferees softened this summary exclusion procedure by inserting a meager administrative review, that is still not sufficient. Also included are restrictions on benefits to legal immigrants more onerous than those contained in the new welfare bill. These defects overshadow the bill's constructive provisions, such as a doubling of the number of Border Patrol officers.

The Clinton administration has voiced tepid concern and has so far withheld its promise of support. But undoubtedly eager to claim victory himself, Clinton cannot be counted on to veto the bill even with these glaring problems. On illegal immigration reform, like welfare, he might not be that far behind Dole on the pander meter.

IMMIGRANT BASHING

Congress is waging its usual election-year war on immigrants. Although we suspect, in this case, the real target of the new immigration "reform" bill making its way through Congress is Bill Clinton.

Yes, Republicans have stripped from the bill—in the face of a Clinton veto threat—a provision that would allow states to throw the children of illegal immigrants out of school, presumably to run wild and ignorant in the streets.

But the measure that remains is still far too punitive in its treatment of both legal and illegal immigrants, too lenient on U.S. employers who hire illegals and too willing to grant the U.S. Immigration and Naturalization Service chilling new authority.

This week, legal immigrants around the nation were being told that they are no longer eligible for food stamps, thanks to the recently enacted welfare reform bill. The anti-immigrant measure would continue that trend of denying legal immigrants public assistance when they are in trouble. These are people who have permission to be here, who hold down jobs when they can get them and who pay taxes and otherwise support the economy.

One particularly mean-spirited provision, for instance, would even deny legal immigrants Medicaid assistance for the treatment of AIDS or HIV-related illnesses. Let them suffer, chortle the bashers in Congress.

And what about unscrupulous employers who hire illegal immigrants for slave wages, thus encouraging still more undocumented aliens to flock to this country? Congress couldn't be bothered to crack down too hard on such practices. Tougher penalties for such practices were deleted from the bill.

One of the most ominous provisions of the bill would grant an unprecedented degree of autonomy to the INS. Under the measure, no court, other than the U.S. Supreme Court, would be authorized to grant injunctions against that police agency when it acts in a legally questionable manner. That's an immunity not afforded the IRS, the FBI, the Drug Enforcement Agency or any other federal police force. Giving it to the INS would constitute a frightening precedent.

The bill isn't all bad. It authorizes a much-needed increase in the size of the U.S. Border Patrol. It would establish new, more efficient procedures for verifying the status of legal immigrants. It would provide tougher penalties for document fraud and for those who smuggle aliens into the country.

But there are so many harsh, immigrant-bashing provisions in the bill that, on balance, it deserves a veto. This is an issue that cries out for resolution after the election—when lawmakers are less inclined to use the immigration issue as a political football.

If President Clinton vetoes the measure, Republicans are sure to paint him as "soft" on illegal immigrants. Indeed, Bob Dole is already hitting on that very theme because of the president's unwillingness to purge the classrooms of the children of illegal aliens.

But as a matter of principle, Clinton should stand up to the Republicans this time and refuse to participate in their immigrant-bashing.

This is another case where politics makes for bad public policy.

A DANGEROUS IMMIGRATION BILL

(New York Times, Editorial)

As the White House and members of Congress make final decisions this week about a severely flawed immigration bill, they seem more concerned with protecting their political interests than the national interest. The bill should be killed.

Debate over the bill has concentrated on whether it should contain a punitive amendment that would close school doors to illegal-immigrant children. But even without that provision, it is filled with measures that would harm American workers and legal immigrants, and deny basic legal protections to all kinds of immigrants. At the same time, the bill contains no serious steps to prevent illegal immigrants from taking American jobs.

Its most dangerous provisions would block Federal courts from reviewing many Immigration and Naturalization Service actions. This would remove the only meaningful check on the I.N.S., an agency with a history of abuse. Under the bill, every court short of the Supreme Court would be effectively stripped of the power to issue injunctions against the I.N.S. when its decisions may violate the law or the Constitution.

Injunctions have proven the only way to correct system-wide illegalities. A court injunction, for instance, forced the I.N.S. to drop its discriminatory policy of denying Haitian refugees the chance to seek political asylum.

On an individual level, legal immigrants convicted of minor crimes would be deported with no judicial review. If they apply for naturalization, they would be deported with no judicial review. If they apply for naturalization, they would be deported for such crimes committed in the past. The I.N.S. would gain the power to pick up people it believes are illegal aliens anywhere, and deport them without a court review if they have been here for less than two years.

The bill would also diminish America's tradition of providing asylum to the persecuted. Illegal immigrants entering the country, who may not speak English or be familiar with American law, would be summarily deported if they do not immediately request asylum or express fear of persecution. Those who do would have to prove that their fear was credible—a tougher standard than is internationally accepted—to an I.N.S. official on the spot, with no right to an interpreter or attorney.

Scam artists with concocted stories would be more likely to pass the test than the genuinely persecuted, who are often afraid of authority and so traumatized they cannot recount their experiences. Applicants would have a week to appeal to a Justice Department administrative judge but no access to real courts before deportation.

The bill would also go further than the recently adopted welfare law in attacking legal immigrants. Under the immigration bill they could be deported for using almost any form of public assistance for a year, including English classes. It would make family reunification more difficult by requiring high incomes for sponsors of new immigrants. The bill would also require workers who claim job discrimination to prove that an employer intended to discriminate, which is nearly impossible.

A bill that grants so many unrestricted powers to the Government should alarm Republicans as well as Democrats. This is not an immigration bill but an immigrant-bashing bill. It deserves a quick demise.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

WATER RESOURCES DEVELOPMENT ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, we do have a very important piece of legislation that has been in the making for quite some time. I know Senators on both sides of the aisle are very interested in it and have been working on it in committee and in conference. This is the water resources conference report.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 640.

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

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1996.)

Mr. CHAFEE. Mr. President, today the Senate will consider the conference report to accompany S. 640, the Water Resources Development Act of 1996. This measure, similar to water resources legislation enacted in 1986, 1988, 1990, and 1992, is comprised of water resources project and study authorizations, as well as important policy initiatives, for the U.S. Army Corps of Engineers Civil Works Program.

S. 640 was introduced on March 28, 1995, and was reported by the Environment and Public Works Committee to the full Senate on November 9, 1995. The measure was adopted unanimously by the Senate on July 11, 1996. On July

30 of this year, the House of Representatives adopted its version of the legislation.

Since that time, we have worked together with our colleagues from the House of Representatives and the administration to reach bipartisan agreement on a sensible compromise measure. Because of the numerous differences between the Senate- and House-passed bills, completion of this conference report has required countless hours of negotiation.

To ensure that the items contained in this legislation are responsive to the Nation's most pressing water infrastructure and environmental needs, we have adhered to a set of criteria established in previous water resources law. Mr. President, let me take a few moments here to discuss these criteria—that is—the criteria used by the conference committee to determine the merit of proposed projects, project studies, and policy directives.

On November 17, 1986, almost 10 years ago, under President Reagan, we enacted the Water Resources Development Act of 1986. Importantly, the 1986 act marked an end to the 16-year deadlock between Congress and the executive branch regarding authorization of the Army Corps Civil Works Program.

In addition to authorizing numerous projects, the 1986 act resolved longstanding disputes relating to cost-sharing between the Army Corps and non-Federal sponsors, waterway user fees, environmental requirements and, importantly, the types of projects in which Federal involvement is appropriate and warranted.

The criteria used to develop the legislation before us are consistent with the reforms and procedures established in the landmark Water Resources Development Act of 1986.

Is a project for flood control, navigation, environmental restoration, or some other purpose cost-shared in a manner consistent with the 1986 act?

Have all of the requisite reports and studies on economic, engineering, and environmental feasibility been completed for major projects?

Are the projects and policy initiatives consistent with the traditional and appropriate mission of the Army Corps?

Should the Federal Government be involved?

These, Mr. President, are the fundamental questions that we have applied to the provisions contained in the pending conference report.

As I noted at the outset, water resources legislation has been enacted on a biennial basis since 1986, with the exception of 1994. As such, we have a 4-year backlog of projects reviewed by the Army Corps and submitted to Congress for authorization.

The measure before us authorizes 33 flood control, environmental restoration, inland navigation, and harbor projects which have received a favorable report by the Chief of Engineers. Fourteen other water resources projects are included for authorization, contingent upon the Congress receiving a favorable Chief's report by December 31 of this year. The estimated Federal cost of this bill is $3.8 billion.

I would like to note that almost one-fourth of the cost of this bill, or an estimated $890 million, is specifically dedicated to environmental restoration and protection. In terms of projects, programs and policies, this is far and away the most environmentally significant Water Resources Development Act to have been assembled by the Congress.

What are some of the important new policy and program initiatives included in the bill? First, we have included a provision proposed by the administration to clarify the cost-sharing for dredged material disposal associated with the operation and maintenance of harbors.

Currently, Federal and non-Federal responsibilities for construction of dredged material disposal facilities vary from project to project, depending on when the project was authorized, and the method or site selected for disposal.

For some projects, the costs of providing dredged material disposal facilities are all Federal. For others, the non-Federal sponsor bears the entire cost of constructing disposal facilities. This arrangement is inequitable for numerous ports.

In addition, the failure to identify economically and environmentally acceptable disposal options has reduced operations and increased cargo costs in many port cities. Regrettably, this is the case for the Port of Providence in Rhode Island.

Under this bill, the costs of constructing dredged material disposal facilities will be shared in accordance with the cost-sharing formulas established for general navigation features by section 101(a) of the 1986 Water Resources Development Act. This would apply to all methods of dredged material disposal including open water, upland and confined. This provision will allow ports like the one in Providence to compete on an equal footing.

We have also expanded section 1135 of the 1986 act in this bill. Currently, section 1135 authorizes the Secretary of the Army to review the structure and operation of existing projects for possible modifications—at the project itself—which will improve the quality of the environment. The 1986 act authorizes a $5 million Federal cost-sharing cap for each such project and a $25 million annual cap for the entire program.

The revision included here does not increase the existing dollar limits. Instead, it authorizes the Secretary to implement small fish and wildlife habitat restoration projects in cooperation with non-Federal interests in those situations where mitigation is required off of project lands.

Third, we have included a provision to shift certain dam safety responsibilities from the Army Corps to the Federal Emergency Management Agency [FEMA]. This change, proposed by Senator BOND and supported by the two agencies, authorizes a total of $22 million over 5 years for FEMA to conduct dam safety inspections and to provide technical assistance to the States.

Next, a provision has been included to address the administration's proposal to discontinue Army Corps involvement in shore protection projects. The provision directs continued beach and shoreline protection, restoration and renourishment activities which are economically justified. I want to credit Senators MACK and BRADLEY, in particular, for their efforts on this matter.

Mr. President, this legislation includes landmark Everglades restoration provisions. On June 11 of this year, the administration submitted its plan to restore and protect the Everglades.

The conferees have worked closely with the Florida delegation to modify and improve the administration's proposal to reverse damage done to this critical natural resource.

The provision we have agreed to would: expedite the Corps study process for future restoration activities; formally establish the South Florida Ecosystem Restoration Task Force; authorize $75 million for the implementation of critical projects through fiscal year 1999; and authorize important modifications to the existing Canal-51 and Canal-111 projects.

Mr. President, I would like to highlight an important cost-sharing reform made necessary by current budget circumstances. The non-Federal share for flood control projects has been increased from the current 25 percent to 35 percent. The fact of the matter is that Corps of Engineers's construction dollars are increasingly scarce.

In order to meet the very real flood control needs across the nation, we are forced to require greater participation by non-Federal project sponsors. Importantly, the bill also includes prudent, yet meaningful ability-to-pay eligibility reforms for poor areas.

Also provided here is a pilot program to demonstrate the benefits of privatizing the management of wastewater treatment plants through long-term lease arrangements. Over the past 25 years, Congress has made a considerable investment in protecting water quality by working with States and cities to ensure the proper treatment and disinfection of domestic sewage. Federal appropriations exceeding $65 billion under the Clean Water Act and $10 billion through the Department of Agriculture have supported grants and loans for the construction of sewage treatment plants.

But in recent years, the flow of funds from the Federal level has slowed while needs at the local level have increased. The most recent survey by EPA indicates that the cost to build and maintain needed sewage collection and treatment facilities across the country exceeds $130 billion. We can't close that gap with Federal tax dollars and local governments are hard-pressed to keep up.

One source of funds that remains virtually untapped is private financing and operation of these facilities. Although many cities are receiving their drinking water from privately owned utilities, this is a much rarer occurrence for the ownership and operation of sewage treatment plants.

To encourage privatization, as it is sometimes called, President Bush issued an Executive order establishing a Federal policy for the sale of sewage plants now owned by cities to entities in the private sector. A policy change is necessary, because the law now requires that any Federal assistance received to build the plant must be repaid from the proceeds of the sale. The Executive order requires that only the undepreciated value of the grant be repaid.

However, sales are not the only means to encourage private investment in these facilities. Another option is a long-term lease. This approach may be more advantageous than a sale because sewage plants that remain in the ownership of municipal government agencies are subject to less stringent pollution control regulations than those that are owned by private entities.

There has only been one outright sale under the Executive order, but several communities including Wilmington, DE, and Cranston, RI, are looking at long-term lease arrangements.

To encourage this approach, the conference report provides that the requirement to repay grants that applies under the Clean Water Act and the Executive order in the case of a sale would not apply to leases if two conditions are met. First, the municipal agency must retain ownership of the facility.

And second, EPA must determine that the lease furthers the purposes and objectives of the Clean Water Act. Our principal aim here is to assure that privatization does not lead to disinvestment. When the Federal Government provided the grant to build the plant, we required the city to collect rates sufficient to maintain the plant and keep it in good working order.

The law and the Executive order also require that the consumer charges supporting maintenance and reinvestment be imposed in a fair and reasonable way. The administrator is to look to these and other requirements of the Clean Water Act to ensure that privatization does not undermine the purposes for which the grant and loan programs to finance the construction of sewage treatment plants were first enacted.

Mr. President, nothing in this legislation directs EPA to approve any particular lease arrangement. As I have said, the city of Cranston in my home State has developed what I believe to be an excellent proposal. Mayor Traficante is to be commended on the innovative approach that he is taking to hold down the costs of municipal government for the people of his city.

Cranston has worked closely with EPA to develop the details of its lease and we very much appreciate the assistance that EPA has provided. There has been a question on whether Cranston would be required to repay part of its grant in the event the lease is completed. This legislation would answer that question, but only if EPA determines that lease arrangement serves the purposes and objectives of the Clean Water Act.

Again, Mr. President, in the area of environmental protection, one of the most difficult water quality problems is the discharge of untreated sewage into rivers, lakes, and estuaries from combined sanitary and stormwater sewers. Sewage treatment plants are designed to handle all of the wastewater generated by a community during dry weather periods.

But for the 1,200 communities that have systems with connections between the stormwater and domestic sewage pipes, large storm events can overwhelm the capacity of the treatment works and lead to discharges of untreated wastewater. This problem is one of the most significant unresolved issues in water quality today.

We have this problem in Rhode Island. The intermittent discharges from our combined sewer overflows have led to closures of swimming beaches and shellfishing beds. Rhode Island is well on the way to correcting the problem, but it will be an expensive undertaking.

In fact, the solution—a planned underground tunnel to hold stormwater runoff until it can be treated—is the biggest public construction project ever planned for the State, with expected costs exceeding $450 million. The bill includes an authorization of modest Federal assistance to Rhode Island to solve this problem and to pay for the water quality mandate imposed by the Federal Clean Water Act.

Mr. President, this legislation is vitally important for countless States and communities across the country.

For economic and life-safety reasons, we must maintain our harbors, ports and inland waterways, flood control levees, shorelines, and the environment.

Despite the fact that this package represents a 4-year backlog of project authorizations, it is consistent with the overall funding levels authorized in previous water resources measures. I urge my colleagues to support the conference report.

Before I yield the floor, Mr. President, I would like to pay tribute to just a handful of the many individuals responsible for this important legislation. First, I would like to thank Senators WARNER, SMITH, BAUCUS, and MOYNIHAN for their hard work as conferees.

Likewise, we could not have reached agreement this year without the efforts of House Transportation and Infrastructure Committee Chairman BUD SHUSTER, his ranking minority member, JIM OBERSTAR, Representative SHERWOOD BOEHLERT, and their excellent staff.

We have worked closely with the administration, Mr. President, and I want to recognize the valuable input of Assistant Secretary Martin Lancaster. Secretary Lancaster and his team, including Deputy Assistant Secretary Mike Davis, Jim Rausch, Gary Campbell, Milton Reider, Bill Schmidtz, John Anderson, Susan Bond, and others have aided us immeasurably.

Finally, I want to thank the Senate staff who have worked so hard on this bill. On Senator BAUCUS's staff, I extend my appreciation to Jo-Ellen Darcy and Tom Sliter. On the Republican side, I want to thank staff members Ann Loomis, Chris Russell, Steve Shimberg, Linda Jordan, Stephanie Brewster, Dan Delich and Senate legislative counsel, Janine Johnson.

I again urge the adoption of the conference report and yield the floor.

Mr. BAUCUS. Mr. President, the Senate now has before it the conference report to accompany S. 640, the Water Resources Development Act of 1996. I would like to compliment the conferees on the fine work they have done in bringing this conference report to the Senate for resolution before the 104th Congress adjourns.

A great deal of work has been done by the House and Senate committees, working together, to reach this point. Everyone involved has been diligent in applying sound criteria for determining the worthiness of individual projects.

I particularly want to commend the conferees for deleting the House provision that would have increased the navigation season on the Missouri River. The operation of the Missouri River is a controversial issue in my State. The Corps of Engineers is currently in the middle of a comprehensive review to determine the best way to manage the river for all interests, including recreation, navigation, irrigation, hydropower and water supply.

For Congress to intervene at this stage of the reevaluation, to predetermine its outcome, would have been counterproductive to a fair and equitable resolution of this issue. I thank the House conferees for receding to the Senate on this issue.

There are some laudable provisions in this conference report, most notably the changes in flood control policy. With tighter Federal budgets, there is a growing need for local interests to become even more committed to their projects. The conference report changes the current Federal cost share for flood control projects from 75 percent to 65 percent.

It also reforms the so-called ability-to-pay provisions of current law to make them more meaningful. It requires floodplain management plans and the consideration of nonstructural alternatives to traditional flood control facilities. Finally, the conference report requires the corps, for the first time, to provide levee owners with a manual describing what they must do in order to maintain a levee to corps specifications.

Another important provision of the bill directs the Secretary to provide increased emphasis on recreation opportunities at corps facilities. And it recognizes the problem of funding disposal facilities for dredged materials and allows that cost to be considered when calculating the overall cost of a navigation project.

Mr. President, while all of these provisions are important improvements to current law and corps policy, I have one overriding concern with this conference report and that is its cost. This bill authorizes $3.8 billion in new Federal spending.

When the Senate considered this bill earlier this year, I voiced concern that the cost of the bill at that time—$3.3 billion—was at odds with our efforts to balance the budget. Since that time, the cost of the bill has grown. I have long supported investments in our infrastructure, including our water infrastructure. They are necessary if America is to retain its competitive advantage and keep a sound base of manufacturing jobs.

But we need to make choices about these investments, hard choices. And while the majority of the projects in this bill are worthy ones, the truth is that we simply cannot afford them all at this time.

Mr. BOND. Mr. President, we are at the end of a very long road in the process of enacting the 1996 Water Resources Development Act authorizing various water resources projects to enhance flood protection, navigation, environmental protection, and related Corps of Engineers projects. Special thanks and congratulations are in order for the Chairman of the full committee, Senator CHAFEE and his ranking member, Senator BAUCUS and the Subcommittee Chairman, Senator WARNER. They and their excellent staff have carried the difficult burden of sorting through in a bipartisan manner these very complex and sensitive issues—issues that are of vital concern to many in this country but particulary for my State of Missouri.

For States like Missouri, who rely greatly on water resources, this legislation is crucial to provide safety, economic development opportunities, and cost-effective navigation on our inland waterway system. Since 1928, for every dollar the corps has spent on flood control, 8 dollars' worth of damages have been avoided. This 8 to 1 benefit to cost ratio does not account for the economic development and job creation benefits that flood protection provides. Recent flooding has highlighted the need to maintain this commitment and keep the Corps of Engineers engaged in partnering with Missouri citizens in this regard. This is a safety, jobs, and international competitiveness issues pure and simple.

Again, I applaud the efforts of the chairman and urge strongly support for this bipartisan legislation.

THE EPA LONG ISLAND SOUND OFFICE

Mr. LIEBERMAN. Mr. President, I rise today to note the critical importance of this legislation, the Water Resources Development Act, to the future of Connecticut's most valuable natural resource, Long Island Sound.

Included in the bill is a provision reauthorizing the EPA's Long Island Sound Office [LISO], which was established by legislation I was proud to sponsor 6 years ago, and which is now responsible for coordinating the massive clean-up effort ongoing in the Sound. Quite simply, the LISO is the glue holding this project together, and I want to express my deep appreciation to the chairman and ranking member of the Environment and Public Works Committee—Senators CHAFEE and BAUCUS—for their help in making sure this office stays open for business.

Mr. President, the Long Island Sound Office has been given a daunting task—orchestrating a multibillion dollar, decade-long initiative that requires the cooperation of nearly 150 different Federal, State and municipal agents and offices. Despite the odds, and the limited resources it has had to work with, the LISO is succeeding. Over the last few years, the EPA office has developed strong working relationships with the State environmental protection agencies in Connecticut and New York, local government officials along the Sound coastline and a number of proactive citizen groups. Together, these many partners have made tremendous progress toward meeting the six key goals we identified in the Sound's long-term conservation and management plan.

The plan's top priority is fighting hypoxia, which is caused by the release of nutrients into the Sound's 1,300 square miles of water. Thanks in part to the LISO's efforts, nitrogen loads have dropped 5,000 pounds per day from the baseline levels of 1990, exceeding all expectations. In addition, all sewage treatment plants in Connecticut and in New York's Westchester, Suffolk, and Nassau counties are now in compliance with the no net increase agreement brokered by the LISO, while the four New York City plants that discharge into the East River are expected to be in compliance by the end of this year. And the LISO is coordinating 15 different projects to retrofit treatment plants with new equipment that will help them reduce the amount of nitrogen reaching the Sound.

The LISO and its many partners have made great strides in other areas, such as cracking down on the pathogens, toxic substances, and litter that have been finding their way into the Sound watershed and onto area beaches. A major source of toxic substances are industrial plants, and over the last few years the LISO has helped arrange more than 30 pollution prevention assessments at manufacturing facilities in Connecticut that enable companies to reduce emissions and cut their costs. Also, New York City has recently reduced the amount of floatable debris it produces by 70 percent, thanks to the use of booms on many tributaries and efforts to improve the capture of combined sewer overflows.

With Congress' help, the LISO will soon be able to build on that progress and significantly broaden its efforts to bring the Sound back to life. This week the House and Senate approved an appropriation of the $700,000 for the Long Island Sound Office, doubling our commitment from the current fiscal year. These additional funds will be used in part to launch an ambitious habitat restoration project. The States of New York and Connecticut have been working with the LISO and the U.S. Fish and Wildlife Service to develop a long-term strategy in this area, and they have already identified 150 key sites. The next step is to provide grants to local partnerships with local towns and private groups such as the National Fish and Wildlife Foundation and The Nature Conservancy, which would focus on restoring tidal and freshwater wetlands, submerged aquatic vegetation, and areas supporting anadromous fish populations.

The funding will also be used for site-specific surveys to identify and correct local sources of non-point source pollution. This effort will focus on malfunctioning septic systems, stormwater management, and illegal stormwater connections, improper vessel waste disposal, and riparian protection. All of these sources contribute in some way to the release of pathogens and toxic compounds into the Sound, a problem that is restricting the use of area beaches and shellfish beds and hurting our regional economy.

Finally, the LISO will continue to build on the successful public education and outreach campaign it initiated last year. In New York, the LISO has already been in contact with public leaders in 50 local communities, held

follow-up meetings with officials in 15 key areas, and scheduled on-the-water workshops for this fall. The LISO is planning to conduct a similar effort to reach out to Connecticut communities in 1997.

All of this could have been put in jeopardy, however, if we had not acted to extend the LISO's authorization, which is set to expire next week. The clean-up project is a team effort, with many important contributors, but it would be extremely difficult for those many partners to work in concert and keep moving forward without the leadership and coordination that the LISO has supplied. So I want to thank my colleagues, especially my friends from Rhode Island and from Montana, for passing this provision before the LISO's authorization lapsed.

The people of Connecticut care deeply about the fate of the Sound, not only because of its environmental importance but also because of its importance as one of our region's most valuable economic assets. With the steps we've taken this week, we have reassured them that we remained committed to preserving this great natural resource, and that we are not about to sell Long Island Sound short.

EVERGLADES RESTORATION PROVISION

Mr. MACK. Mr. President, I rise today in strong support of the conference report on the Water Resources Development Act and, in particular, the provision in the bill relating to the restoration of Florida's Everglades. I want to especially thank the distinguished chairman of the committee, Mr. CHAFEE. The Senator from Rhode Island clearly understands the unique nature of the Everglades problem and, on behalf of all Floridians, I extend my appreciation for his efforts on behalf of this legislation.

It is no secret, Mr. President, that the Everglades are a resource unique and precious to all Americans. This "river of grass"—extending from the Kissimmee chain of lakes through to Florida Bay and the Florida Keys—is the primary source of south Florida's drinking water, critical to our cultural heritage and essential to our continued economic well-being. As the Everglades go, Mr. President, so goes south Florida. How best to craft a balance between the urban, agricultural, and environmental interests presents one of the greatest challenges facing this generation of Floridians.

This Congress has already demonstrated its unwavering commitment to this resource by appropriating $200 million in direct funding for Everglades restoration during consideration of the farm bill earlier this year. This move represents the single-largest funding commitment to the Everglades in history and is indicative of the interest this Congress has in ensuring that this important resource is passed on to future generations.

It has not always been so. In an effort to provide flood control for the rapidly-growing region, Congress in 1948 authorized the massive central and southern Florida project. The goal of this effort was to drain the swamp through a series of canals extending from Lake Okeechobee to the sea. The result was thousands of acres opened to agriculture and development and an unprecedented economic expansion in the region.

This was not, however, without a significant cost. The reallocation of water resulting from the project disrupted the natural hydroperiod of the Everglades. Wildlife populations plummeted and fresh water flows were diminished. Critical resources like Florida Bay—a once-vibrant body of water that sustained both a healthy environment and a strong coastal economy—began to wither on the vine. As Florida's coastal communities felt the effect of this harm, an effort began to rethink the project and how it relates to the new realities in south Florida.

In 1992, Mr. President, Congress directed the Army Corps of Engineers to perform a Comprehensive Review Study—restudy—of the C&SF project with an eye toward capturing the millions of acre-feet of fresh water currently being lost to tide every year and reallocating this resource within the south Florida ecosystem. This restudy presents the opportunity to integrate scientifically sound environmental restoration into the mix of priorities in south Florida in a balanced, equitable, and responsible manner.

Due to the complexity of this task and the difficulty coming to consensus on solutions, it began to appear that this restudy would last at least several years into the next century. This, Mr. President, was simply unacceptable. The citizens and water users in south Florida have a legitimate interest in knowing the specifics of the restoration effort sooner rather than later. The Congress has a legitimate interest in knowing how much all of this is going to cost the Federal Government. And the State of Florida—which has committed to become a 50/50 partner with the Federal Government in this effort—has a legitimate interest in knowing the size and duration of its commitment to Everglades restoration.

In fact, the State of Florida recognized the need for balance and consensus several years ago. The Governor's Commission for a Sustainable South Florida—an ad-hoc coalition of 46 interest groups and governmental entities across the spectrum in south Florida—was created to seek out restoration goals and projects which everyone agreed would accelerate the restoration without harming the various water users. The commission recently unanimously approved a remarkable document which details 40 specific projects. This blueprint will increase the pace of restoration while taking into account the water-related needs of all parties in the region. The corps has indicated that if it were able to work from this consensus document, it could come to closure on the restudy within 3 years.

Thus began, Mr. President, our efforts this year. After much negotiation and effort, my colleague from Florida, Senator GRAHAM and I were able to arrive at the package we are considering today.

Specifically, Mr. President, the legislation before us requires the corps to submit a comprehensive plan for restoration of the Everglades by July 1, 1999. This plan will include a list of specific projects for authorization by Congress and will include the necessary engineering and design. Clearly, this will require a monumental effort by the corps as it works to complete its work by this deadline. We have been repeatedly assured by the corps that it can be done without shortcutting necessary engineering and planning.

The legislation further contains $75 million in authority for the Corps of Engineers to construct projects deemed critical to the restoration effort. The report language accompanying this bill indicates five projects which ought to be top priority for the corps as it exercises this authority. These projects are universally accepted in south Florida as projects which can be carried out within the next 3 years and which will significantly accelerate the restoration effort.

Lastly, Mr. President, this bill establishes in law the South Florida Ecosystem Restoration Task Force. This is an intergovernmental body which includes representatives from the Federal Government, State and local entities and the two Indian tribes present in the Everglades. The task force is based largely on the successful arrangement currently operating in south Florida and will provide a forum for exchanging information, taking public comment and input, and coordinating the overall restoration effort.

Mr. President, we believe this package represents a significant step forward in the continuing effort to restore the Everglades and provide a sustainable economy for all the residents of south Florida. I again express my sincere appreciation to Senator CHAFEE and Senator BAUCUS—and the Environment Committee staff—for their outstanding support and leadership on this effort. I urge my colleagues to support the conference report.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, I rise today in support of S. 640, the Water Resources Development Act of 1996 [WRDA]. Congress last passed a WRDA

bill in 1992, and I am pleased that we are able to pass this legislation that authorizes spending for many important water projects.

A provision in this bill authorizes the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within or contiguous to the boundaries of the Buford Trenton Irrigation District, ND. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River. The corps began operation of this Dam in 1955.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. The intent of Congress is for the Secretary to acquire these easements based on the current fair market value of the land, and not the value of land before Garrison Dam was operational. I would like to submit a copy of a letter I sent to the corps requesting a clarification of their intent in implementing this provision, and a copy of the corps' response stating the Secretary shall appraise these easements at their current fair market value, as if the lands are not affected by rising ground water and the risk of surface flooding.

I applaud this provision that justly compensates these landowners for damage to their land from rising ground water and the risk of surface flooding due to the operation of the Garrison Dam.

Mr. President, I would also like to express my position to a provision in this bill that raises the non-Federal cost-share requirement for Corps of Engineers flood control projects from 25 percent to 35 percent. it is my understanding that this provision does not apply to flood control projects that have previously been authorized, or are authorized in this bill.

I am concerned that this provision will have a detrimental impact on smaller communities in North Dakota that are in need of flood control projects. I understand the motivation to save the Federal Government money by requiring local partners to contribute more to these flood control projects. However, this provision will place a significant financial burden on communities in North Dakota that are in dire need of flood control projects but do not possess the resources or the tax-base to raise this additional cost share.

Also, some communities in my State, such as Grand Forks, are currently cost-sharing feasibility studies for flood control projects with the corps. These communities have committed significant funds based on the fact any flood control project that resulted from the study would be cost-shared at a 75-to-25 Federal/non-Federal ratio. This provision places a financial burden on communities like Grand Forks that are currently financing feasibility studies and budgeting for a cost share of 25 percent on flood control projects. It is my hope the Congress would recognize the negative impact this provision has on communities like Grand Forks and allow flood control projects to be constructed under the current 25 percent non-Federal cost-share, should the community demonstrate an inability to meet the 35 percent cost-share requirement.

Mr. President, I would like to thank the chairman of the Senate Committee on Environment and Public Works, Senator CHAFEE, and the ranking member of the committee, Senator BAUCUS, for their efforts in completing this important legislation during the 104th Congress.

Mr. President, I ask unanimous consent that two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 26, 1996.

H. MARTIN LANCASTER,
Assistant Secretary for Civil Works, Department of the Army, Washington, DC.

DEAR ASSISTANT SECRETARY LANCASTER: I am writing in regard to the Water Resources Development Act of 1996 (WRDA). I would like to know the intent of the U.S. Army Corps of Engineers in implementing Section 336 of this bill.

As you know, Section 336 of the conference version of the WRDA bill authorizes the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within or contiguous to the boundaries of the Buford Trenton Irrigation District in North Dakota. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. The intent of Congress is for the Secretary to acquire these easements based on the current fair market value of the land, as if unaffected by rising ground water and the risk of surface flooding. Implementing this provision as Congress intends will justly compensate these landowners for damage to their land due to the operation of the Garrison Dam.

I am requesting an assurance from the Corps that, for the purpose of acquiring these flowage easements, this land will be appraised at the current fair market value, as if unaffected by the operation of Garrison Dam.

Thank you for your consideration and I look forward to hearing from you.

Sincerely,

KENT CONRAD,
U.S. Senate.

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS, 108 ARMY PENTAGON,
Washington, DC, September 27, 1996.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: This letter is written in response to your letter dated September 26, 1996, regarding the Army Corps of Engineers intent in implementing Section 336 of the conference version of the proposed Water Resources Development Act of 1996.

In implementing section 336 and the acquisition of flowage easements from willing sellers, the Corps shall appraise such easements at their current fair market value as if the lands are not affected by rising ground water and the risk of surface flooding.

I hope this letter addresses your concerns.

Sincerely,

JOHN H. ZIRSCHKY,
Principal Deputy Assistant Secretary of the Army (Civil Works).

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the Water Resources and Development Act of 1996. This legislation authorizes funding for a number of critical flood control projects in Pennsylvania, whose need was once again demonstrated by the devastating flooding that occurred in January 1996. It will provide essential protection to existing commercial and residential developments, reducing losses attributable to floods, lowering flood insurance, and creating opportunities for economic growth.

I have worked closely with Senator SANTORUM, as well as Chairman CHAFEE, Chairman WARNER, and Senator BAUCUS, to ensure that this legislation reauthorizes the Saw Mill Run project in Pittsburgh, authorizes Army Corps of Engineers funding for upgrades to the storm water pumping station at the Wyoming Valley levee raising project in Luzerne County, and authorizes a flood control project for the Plot and Green Ridge neighborhoods in Scranton.

The flood protection project at Saw Mill Run will alleviate flood damage in the West End section of Pittsburgh, bringing relief to residents who have been hard hit by overbank flooding and creating opportunities for economic development in the Saw Mill Run corridor. During my visit to the project site with the mayor of Pittsburgh, Tom Murphy, on November 21, 1995, he and I discussed the city's commitment to protecting its vulnerable riverside communities and to providing the city's share of the development funds. I am pleased that this project can go forward and that we were able to secure $500,000 for construction-related costs in the fiscal year 1997 energy and water appropriations legislation.

The Wyoming Valley levee raising project is necessary to the completion of the flood control project of 1986, so

that the families and businesses of Wyoming Valley will not have to withstand the devastation of flooding as they did in 1972 from Tropical Storm Agnes. This January's flooding forced more than 100,000 people to evacuate their homes and businesses and resulted in President Clinton's declaring it a disaster area. Such a flood control project is vitally important to the affected communities along the Lackawanna River and is deserving of significant attention from the Congress. This February, the corps approved the General Design Memorandum and has begun to develop the mitigation measures for the downstream communities. This legislation incorporates an amendment offered on my behalf in the Senate managers' amendments which directs the corps to take responsibility for funding the upgrades to the storm water pumping stations.

Finally, I have worked closely with Senator SANTORUM, Congressman JOSEPH MCDADE, Chairman CHAFEE, and Scranton Mayor Jim Connors on legislation authorizing the modification of the ongoing project for flood control along the Lackawanna River in Scranton to include the Diamond Plot and Green Ridge neighborhoods. These neighborhoods have been consistently damaged by flooding, including in 1985, 1986, 1993, and 1996. On March 11, 1996, I convened a meeting in the city council chambers so Federal, State, and local officials, the Army Corps, and residents could discuss the potential for a Federal flood control project. I came away from that meeting even more impressed with the need for the Federal Government to respond with a substantial flood control effort to protect the lives and property of the residents.

The conference report authorizes the flood control project in the Plot and Green Ridge areas, with the cost-sharing element to be worked out between the Army Corps of Engineers and the city of Scranton. This is a creative solution to a difficult problem and I am hopeful that the city and the Commonwealth will work together to develop a strategy for providing the non-Federal share of the project costs. It is worth noting that the fiscal year 1997 energy and water appropriations bill contains $600,000 for initial planning and design work of the Plot/Green Ridge projects, which means that additional time will not be lost on protecting the residents of those areas.

Mr. President, thousands of families and businesses in Pennsylvania were adversely affected by in this January's floods, and one of my priorities has been that Congress respond with sufficient funding for justified Army Corps projects. I remain concerned with the time it takes to make progress on various corps projects in Pennsylvania and will continue to explore ways to streamline the construction process. In the meantime, this legislation allows much-needed flood control projects to go forward and thus deserves our support.

Mr. KEMPTHORNE. Mr. President, I am pleased today to support the Water Resources Development Act of 1996 and I would like to congratulate the conferees of the Environment and Public Works Committee for their fine work supporting the Senate's position on this bill.

I also want to thank the conferees for supporting my amendments to that bill. Specifically, the committee supported research and development programs to improve salmon survival and supporting the continuing presence of the dredge fleet in the Columbia River.

By now everyone in the country knows the immense challenges we in the Northwest face concerning salmon survival in the Columbia and Snake Rivers. The puzzle of salmon survival is a complex one which has its roots in not only the water projects on the Columbia and Snake Rivers but also on the coasts and in the open ocean. Although a great deal of money has been spent on salmon survival, I was surprised in hearings before the Drinking Water, Fisheries and Wildlife Subcommittee that sometimes basic research into salmon survival is either not done or waits until adaptive management techniques are implemented.

The intent of my amendment was to ensure that basic research into marine mammal predation, spawning and rearing areas, estuary and near ocean survival, salmon passage, light and sound guidance of salmon, surface collection, transportation, dissolved gas monitoring, and other innovative techniques to improve fish survival does not have to wait until an adaptive management experiment is initiated. Adaptive management should be a response to sound science not a substitute for it. A $10 million authorization is provided for this research.

The amendment would also ensure a continuing authorization for advanced turbine development. One of the most overlooked sources of renewable energy in the Nation's energy arsenal is hydroelectric power. New research into turbine design has been for the most part overlooked. With the environmentally and fish friendly turbine design research authorized by this bill we can ensure that innovative, efficient, and environmentally safe hydropower turbines will be providing us with the next generation of power into the 21st century. A $12 million authorization is provided for this research.

Finally, the Water Resources Development Act includes language which ensures the continued presence of Army Corps of Engineers hopper dredges in the Pacific Northwest. I thank the conferees and Chairman CHAFEE for including language in the bill which directs the Secretary to not reduce the availability or utilization of Federal hopper dredge vessels on the Pacific coast below 1996 levels. I appreciate the conferees working closely with me to develop language that would ensure that the necessary resources remain available to keep the Columbia River channel open to commerce of up river cities, including Idaho's inland port of Lewiston.

I wholeheartedly support this legislation and I thank the conferees for their consideration of my concerns.

WHITE RIVER BASIN LAKES, ARKANSAS AND MISSOURI

Mr. BOND. Mr. President, section 304 of this legislation includes "recreation and fish and wildlife mitigation" as purposes of the White River Basin Lakes project approved June 28, 1938 (52 Stat. 1218.). There are some in my State who have voiced strong concern that this provision may impact adversely the currently authorized project purposes of flood control, power generation, and other purposes. They fear that the outcome may be loss in generation capacity or energy production which would increase the costs to ratepayers and adversely affect the region's citizens.

The Senate language, however, explicitly authorizes these new purposes "to the extent that the purposes do not adversely impact flood control, power generation, or other authorized purposes of the project." Is it the intent of the Senators from Arkansas, who sponsored this provision, that this provision forbids any adverse impacts on currently authorized projects?

Mr. BUMPERS. The Senator from Missouri is correct. We drafted this language to explicitly preclude adverse impacts to flood control, power generation, and the other project purposes. It is the clear intent of this legislation to recognize the contribution of tourism and recreation to the economies of our respective States and to take such actions as may be proper to protect that contribution. It is equally clear that such action can occur only as long as the primary project purposes, previously established by law and practical application of that law, are fully protected.

It should be remembered that prudent use of our Nation's water resources is not limited to a few specific purposes that are mutually exclusive of one another. In addition, we must also recognize that, at times, the establishment and protection of priorities are also proper elements of public policy. Such is the case here. It is true that the tourism and recreation industries have grown beyond the expectations of anyone associated with the original construction of flood control and power generation facilities along the White River. However, this does not mean that our continuing support for flood control and efficient power generation has diminished in any degree.

I have long been one of the strongest supporters in the U.S. Senate of hydro-

electric power generation. It is one of the most efficient and environmentally based sources available to our ever-growing demand for energy. Reasonable electric rates are critical to economic development and a comfortable standard of living for our people. I understand the concerns of those involved with power generation along the White River that the inclusion of recreation as a project purpose may somehow impair their access to an efficient and affordable energy source. Let me clearly state that these concerns are totally unnecessary.

The provision before us plainly prohibits any adverse impact to power generation. We clearly recognize the customary practices employed by the Corps of Engineers and power generators along the White River which have achieved proper resource conservation, energy output, and ratepayer equity. In no way should those practices be impaired or restricted by this provision. Instead, we have made certain that power generation, along with flood control and other prior purposes and practices, will remain intact.

Mr. PRYOR. Mr. President, I join my colleague from Arkansas to express thanks to the Committee on Environment and Public Works for including the language in section 304 of the Water Resources Development Act relating to the project purposes of the White River Basin Lakes in Missouri and Arkansas. This is a significant development for the tourism and recreation industries in our States.

In Arkansas, tourism has become the second leading industry, directly behind agriculture, in terms of its impact on State and local economies. Nowhere is it felt more strongly than in the White River Basin. And it is not just the local economies that feel the impact. The tax revenues generated return to the Federal treasury an amount far exceeding the Federal investment.

The White River Basin Lakes were authorized during an era when our Nation's needs and economies were quite different from today. While the Congresses of the 1940's were visionary and accomplished many positive things for our Nation in terms of flood control, and later power generation, it would have been impossible for them to imagine the development of tourist industries, such as Branson, MO, that would be affected by these lakes. It would have been impossible to know that millions of visitors each year would spend untold millions of dollars on recreation related goods and services.

I am aware of the concerns of power suppliers in both States who worry that this language will somehow subordinate power generation at these dams to recreation interests. Mr. President, as we read this language, it is absolutely clear that flood control and power generation will not be adversely affected by any actions that this legislation authorizes the Army Corps of Engineers to undertake. This language simply grants a place at the table to recreation, tourism and fish and wildlife interests. It allows the Corps of Engineers to consider impacts on these interests when making decisions about the management and operation of these lakes. This is long overdue.

Mr. INHOFE. I too am concerned that this language not adversely impact flood control, power generation capacity, energy production, Federal revenues or other authorized purposes. Has the Senator from Arkansas been in contact with the Corps of Engineers to this regard?

Mr. BUMPERS. My office has contacted representatives of the Corps of Engineers and they share our interpretation that this provision, as drafted, cannot adversely impact ratepayers. As stated by my colleague from Arkansas, we have no intention that this provision will raise rates, affect energy production or Federal revenues or any other project purposes currently authorized. Conversely, it is our strong view that there are measures that can be taken to assist the tourism and fish and wildlife interests that do not impact adversely the existing project purposes. It is not our intention to have this provision result in loss of generation capacity or increase exposure to ratepayers. It was for this reason that we drafted the language in such an explicit manner.

Mr. BOND. Mr. President, is it the interpretation of the distinguished chairman of the Committee that the clear priority project purposes remain flood control, power generation capacity, energy production, Federal revenues, and those other purposes authorized subject to the 1938 law and that the additional authorization included in this legislation shall be secondary should there be any conflict between them, and the current operation of the projects for the purposes of flood control and power shall remain project priorities?

Mr. CHAFEE. The Senator from Missouri is correct. The project priorities are clear.

Mr. BOND. Mr. President, I appreciate the consideration of the Senators from Arkansas, Senator INHOFE from Oklahoma and the chairman of the Committee. Hydropower is critical to the citizens and economies of our states. I understand that power producers have been working already with fish and wildlife specialists to accommodate their interests. As this project proceeds, I will watch with great interest to see that fish and wildlife interests can be served additionally without undermining the clear and explicit intent of this provision.

Mr. CONRAD. I notice that the chairman of the Senate Committee on Environment and Public Works is on the floor. I would like to engage him in a short colloquy.

As you know, section 336 of the Water Resources Development Act of 1996 authorizes $34 million for the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within and contiguous to the boundaries of the Buford Trenton Irrigation District, North Dakota. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River. The corps began operation of this dam in 1955.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. Would the chairman agree that it is the intent of Congress that the unaffected fee value of the land be based on the current fair market value of the land as if unaffected by rising ground water and the risk of surface flooding, and not the value of the land before the Garrison Dam was operational?

Mr. CHAFEE. I would agree with the Senator that the intent of Congress is to compensate these landowners, as necessary, for damages due to the operation of the Garrison Dam using the current fair market fee value of the land. The Secretary shall value the land using current fair market rates as if the land has not been affected by rising ground water and the risk of surface flooding, and would compensate the landowners based on this price assessment. The Secretary should not value this land at the pre-project rate.

Mr. CONRAD. I thank the chairman for clarifying the intent of Congress regarding the purchase of flowage easements for lands in and adjacent to the Buford Trenton Irrigation District. I also want to thank the chairman for his efforts in passing this important legislation during the 104th Congress.

Mrs. BOXER. Will Senator CHAFEE, the distinguished chairman of the Environment and Public Works Committee, yield for a question?

Mr. CHAFEE. I will be happy to yield to the Senator from California.

Mrs. BOXER. I first want to thank the chairman as well as Senator BAUCUS, the ranking Democrat, and Senator JOHN WARNER, the chairman of the Transportation and Infrastructure Subcommittee, for their determination to bring the Water Resources Development Act to conference. They have crafted a bill and a conference report that will mean for my State of California strong economic progress by opening our ports to more international

trade, protecting our people from natural disasters while providing opportunities to preserve and enhance the environment.

I would like to focus on one provision of the bill involving the American river watershed. Mr. President, subparagraph D of this provision states:

The non-Federal sponsor shall be responsible for . . . 25 percent of the costs incurred for the variable flood control operation of the Folsom Dam and Reservoir.

Therefore, I interpret this to say that the local, non-Federal share of the costs of the variable flood control operation of Folsom Dam is not to exceed 25 percent.

It is also my understanding that it is the intent of the conferees that the remaining 75 percent of the costs associated with the variable flood control operation of Folsom Dam and Reservoir be the responsibility of the United States and that such costs shall be considered a nonreimbursable expense. In other words, these costs should not be passed on to the water and power ratepayers of California. May I ask the chairman if my understanding of the language is correct?

Mr. CHAFEE. Yes, the intent here is to ensure that the costs associated with the variable flood control operation of Folsom Dam and Reservoir be shared between the non-Federal project sponsor and the Federal Government. The cost of the provision of interim flood protection to the citizens of Sacramento is to be shared.

Mrs. BOXER. I thank the Senator from Rhode Island for this clarification, and ask if he would yield for a question on another provision.

Mr. CHAFEE. I will be happy to yield.

Mrs. BOXER. The Water Resources Development Act authorizes construction of the San Lorenzo River flood control project. The authorization includes critical habitat restoration, which is to done in conjunction with the flood control portion.

It is my understanding that the Army Corps of Engineers has completed the prerequisite studies for this restoration under the section 1135 environmental restoration program. In addition, the fiscal year 1995 and 1997 energy and water appropriations bills direct funding for this project through the section 1135 program. Further, it is my understanding that the intent of the conferees that the authorization of this project will allow the use of section 1135 studies as well as funding so that there is no further delay in the engineering, design, and construction of this project. Is my interpretation correct?

Mr. CHAFEE. Yes, the intent here is to include the habitat restoration work as part of the authorized project. Studies which have been completed by the Secretary for the habitat restoration should be put to use. Similarly, appropriations approved by Congress for the project should be made available to avoid unnecessary delay.

Mrs. BOXER. I thank the chairman for his responses and for his continued leadership in water resource development and environmental protection.

THE LA FARGE DAM

Mr. FEINGOLD. Mr. President, I want to express my strong support for the conference language in the 1996 Water Resources Development Act reauthorization [WRDA] that deauthorizes the La Farge Dam and Lake project. I wish to commend the hard work of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BAUCUS], the Senator from Virginia [Mr. WARNER], and their staff in completing the conference on this measure in a timely fashion prior to the adjournment of the 104th Congress. I have also been very pleased with the collegial work that has taken place among the Members of the Wisconsin delegation—Representative GUNDERSON, Senator KOHL, and myself—in steadfastly pursuing this deauthorization this year.

As I stated when this measure passed the Senate in July 1996, I am pleased that the Congress is finally acting to end this controversial project and to seek a new beginning for the Kickapoo Valley. We are finally able to say to the people of the Kickapoo Valley that the Federal Government can act to improve their lives and correct a situation that has long been the symbol, to many in the area, of a broken promise. This legislation will allow the property to be managed jointly by a local government panel comprised of local, State and tribal representation. It will be the first time in our State's history that these three different levels of government will work together to manage a property to preserve its ecological integrity while allowing the public access to the outstanding recreational opportunities.

I wanted to briefly review the details of the conference agreement with respect to this project. Under this legislation, the 8,569 acres of land purchased by the Federal Government for the construction of the La Farge Dam and Lake project will be transferred to two owners: The State of Wisconsin and the Ho Chunk Nation, a federally recognized tribe in my State. The Ho Chunk Nation will receive no more than 1,200 acres in the transfer of culturally and religiously significant sites, and the State will receive the rest.

This transfer will occur once the State and the tribe enter into a memorandum of understanding [MOU]. That MOU must ensure that the property is developed only to enhance outdoor recreational or educational purposes, described how the lands will be jointly managed, protect the confidentiality of sites of cultural and religious significance to the Ho Chunk as appropriate, and establish the terms by which the agreement will be revisited in the future.

I am particularly pleased that the conference committee was able to include a $17 million authorization for improvement projects at this site, an authorization which was supported by the Wisconsin delegation and the local community. These improvements include: Reconstruction of the three roads; remediation of old underground storage tanks and wells on the abandoned farms; and the stabilization of the old dam site.

Next month, members of a gubernatorially appointed negotiating panel will meet with representatives of the Ho Chunk Nation to begin the MOU negotiating process. Bolstered by the passage of this legislation, I know they will try to work as swiftly as possible to complete their task.

In conclusion, Mr. President, I again want to express my gratitude to the members of the conference committee for their assistance in working with the delegation on this matter. I believe that this legislation will result in a truly landmark arrangement for the management of a public recreational area. I look forward to the final establishment of the Kickapoo Valley reserve, and the protection of this truly outstanding resource.

I first introduced legislation, S. 2186, to achieve this goal on June 14, 1994, and reintroduced that measure as S. 40 on January 4, 1995. It is a great pleasure to see this measure finally enacted.

Mr. LOTT. Mr. President, I ask unanimous consent that the conference report be considered adopted, the motion to reconsider be laid upon the table, and that statements relating to the report be placed at this point in the RECORD.

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

The conference report was agreed to.

UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 3539

Mr. LOTT. Mr. President, I ask unanimous-consent that the Senate turn to the consideration of the conference report to accompany H.R. 3539, the FAA reauthorization bill, and the reading of the conference report be waived.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object.

The PRESIDING OFFICER. The acting leader.

Mr. FORD. Mr. President, I know there will be an objection after I make my statement, and I regret that. We have worked long and hard to bring this FAA reauthorization bill to the floor. I have worked years on it, along with the occupant of the Chair. We

have security in there. We have funding for airports. We have the money to cover letters of intent. All of this is extremely important. And one item in this bill is going to bring it down.

I wish it was not in there. I wish we did not have it, but it is there. And I hope that those that object to that portion of it would just give us an up-and-down vote. The House did that. And why we could not have an up-and-down vote—based on the content of the bill, if you are opposed to all of this, all the funding for the airports, all the security, and opposed to all the money going to your airports, opposed to essential air service, all these things, then you have to vote no on the whole bill for this one item.

Mr. LOTT. Mr. President, if I could just make a comment before there is objection, if there is in fact going to be objection, to be heard further in support of my unanimous-consent request. I want to thank the Senator from Kentucky for his good work on this legislation. It has been a long time coming. He and Senator MCCAIN and Senator STEVENS and others have worked very hard.

You have an outstanding bill here. In less than 72 hours the Federal Government's authority to provide critical funding to airports across the country and our national air transportation system will expire unless we pass this FAA reauthorization bill. I am talking about over $9 billion annually for the national needs, such as air traffic control, repair, maintenance and modernization of our air traffic control equipment, repair and construction of runways, taxiways, and other vital aviation infrastructure, the purchase of critical firefighting equipment at our Nation's airports. And the list goes on. I mean, this is also very much a question of safety.

Mr. FORD. No question about it.

Mr. LOTT. Mr. President, the recent tragic aircraft accidents, and continuing reports of power outages and equipment failures in our air traffic control centers, have raised questions about the safety of our Nation's air transportation system and the effectiveness of the Federal Government in safeguarding the traveling public.

We must do our part to reassure the traveling public that we have the world's safest air transportation system. This comprehensive legislation will go a long way in reassuring the public that the system is safe, and ensure the FAA will have a stable, predictable, and sufficient funding stream for the long term. Again, the FAA bill will:

Ensure that the FAA and our Nation's airports will be adequately funded by reauthorizing key FAA programs, including the Airport Improvement Program, for fiscal year 1997;

Ensure that the FAA has the resources it needs to improve airport and airline security in the near term;

Direct the National Transportation Safety Board to establish a program to provide for adequate notification of and advocacy services for the families of victims of aircraft accidents;

Enhance airline and air travelers' safety by requiring airlines to share employment and performance records before hiring new pilots;

Strengthen existing laws prohibiting airport revenue diversion, and provide the FAA with the tools they need to enforce Federal law prohibiting revenue diversion;

Most important, provide for thorough reform, including long-term funding reform, of the FAA to secure the resources to ensure we continue to have the safest, most efficient air transportation system in the world.

To assure air travelers and other users of our air transportation system that safety is paramount, the bill:

Requires the FAA to study and report to Congress on whether certain air carrier security responsibilities should be transferred to or shared with airports or the federal government;

Requires the National Transportation Safety Board [NTSB] to take action to help families of victims following commercial aircraft accidents;

Requires NTSB and the FAA to work together to develop a system to classify aircraft accident and safety data maintained by the NTSB, and report to Congress on the effects of publishing such data;

Ensures that the FAA gives high priority to implement a fully enhanced safety performance analysis system, including automated surveillance;

Bolsters weapons and explosive detection technology through research and development;

Improves standards for airport security passenger, baggage, and property screeners, including requiring criminal history records checks;

Requires the FAA to facilitate quick deployment of commercially available explosive detection equipment;

Contains a sense of the Senate on the development of effective passenger profiling programs;

Authorizes airports to use project grant money and passenger facility charges [PFC] for airport security programs;

Establishes aviation security liaisons at key Federal agencies;

Requires the FAA and FBI to carry out joint threat and vulnerability assessments every 3 years;

Requires all air carriers and airports to conduct periodic vulnerability assessments of security systems; and

Facilitates the transfer of pilot employment records between employing airlines so that passenger safety is not compromised.

The bill also expands the prohibition on revenue diversion to cover more instances of diversion and establishes clear penalties and stronger mechanisms to enforce Federal laws prohibiting airport revenues from leaving the airport. "It is fundamental that we reverse the disturbing trend of illegal diversion of airport revenues to ensure that airport revenues are used only for airport purposes," said McCain.

"We must do our part to reassure the traveling public that we have the world's safest air transportation system," concluded McCain. "This comprehensive legislation will go a long way in reassuring the public that the system is safe, and ensure the FAA will have a stable, predictable, and sufficient funding stream to be the long term."

Each of these elements of H.R. 3538 is essential to fulfill Congress' responsibility to improving our country's air transportation system.

Clearly, Congress, the White House, DOT, the FAA, and others throughout the aviation industry have been under close scrutiny regarding the state of the U.S. air transportation system.

The traveling public has told us they are worried about the safety and security of U.S. airports and airlines, and the ability of the Government to alleviate these concerns. Recent tragic events suggest that this apprehension is justified, and we have been strongly encouraged to correct the problems in our air transportation system. The FAA bill will go a long way toward making the system safer and better in every way.

The American people demand we get this done, and they deserve no less.

It really alarms me that we have cut it this close. It looks like there may be objection. In fact, the recent tragic aircraft accidents and the continuing reports of power outages and equipment failures in our air traffic control centers have raised all kinds of questions that we are trying to address with this bill.

So I think we need to move it forward. There are so many good parts of this bill. It is so essential. It does have so many safety ramifications that I hope that we could move it forward in a unanimous way.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Reserving the right to object for a moment, let me just say that I am intrigued by the conversation and am concerned about the airline safety issues, the funding. I am very concerned about those issues. I want this bill to pass too.

So why in the world, yesterday, just yesterday, under the guise of a technical correction to the Railway Labor Act, was an unacceptable and very controversial special interest provision added to this bill? It was not because of airline safety. It was not because of funding for the airports. And it was not a technical correction.

The provision makes a significant change in Federal law to give Federal

Express an edge in its current attempt to stop some of its employees from joining a union. That is what is so all-fired important here and had to be put in yesterday in a bill that we are being told has to pass because of airline safety. That is the issue. Let us just get this out of there. That is what that provision is about. It has nothing to do with airline safety.

Mr. President, because of what really has happened here, I object.

The PRESIDING OFFICER. Objection is noted.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. LOTT. Mr. President, I also want to comment, if I could, on the objections that we heard earlier today to the omnibus parks bill, commonly referred to as the Presidio bill. I might say to the Senator from Kentucky, this is not a unanimous-consent request. I just want to make a brief statement.

Mr. FORD. That is fine.

Mr. LOTT. I would be glad to yield further.

Mr. FORD. Go ahead.

Mr. LOTT. On the Presidio bill there has been objection now from our Democratic colleagues to turning to that omnibus bill. We had tried to dispense with the reading and recommit the conference report back to the conference in order to take care of a provision in there that had raised concern, the tax provision. And I thought at one point, I guess 24 hours ago now, that we were going to be able to get agreement on both sides of the aisle to recommit that conference report and take care of the problem and then move this very important parks bill forward that affects 41 States, contains 126 separate provisions relating to parks and public lands.

This is the most important parks bill we have had in probably 4 years. It does have a lot of very important areas involved that need to be preserved, from battlefield sites to the Sterling Forest site that affects the New Jersey and New York area, the tall grass project out in Kansas, as well as the Presidio, and some very important projects in the State of Alaska. I know the distinguished Presiding Officer certainly cares an awful lot about that and the chairman of the committee.

So I do not understand what is going on here. I understand from the administration that they have a list of their preferred projects, that they say, "Oh, well, we'll take these and no more." Well, probably those projects that they say they cannot be included, they are good projects, most of them, they are projects from Democrats and Republicans.

There has been a continuing effort to work out something on this. I am astounded we are going to leave and not get this done. But we are not going to be able to put this whole bill in the continuing resolution. If we do not move it separately as an omnibus bill, then we will have no parks bill this year.

There was an effort maybe just to include one or two projects. I understand that has been objected to from the administration. I do not know where we go from here on this very important legislation but time is certainly running out.

I think it is once again going to be a tragedy, like the FAA reauthorization. In an effort to force an effect, a unionization of a company, they are going to bring down the whole FAA infrastructure. I do not understand that. And now in order to block two or three minor projects, we are going to have the whole parks bill go down?

Here is another thing about that. It is the continuing process of how when we meet objections the goalposts move. We were told on the illegal immigration, the Gallegly section is the problem. "We'll veto it over that." Well, we took it out. They said, "Wait a minute. We have some other problems." Same thing on this bill. We were told there were certain projects, three or four that were major problems. The chairman took them out. Then they said, "Oh, well. No. We have 50 other projects that we have problems with."

Mr. President, we have to have, in these final hours of the session, good faith, and we have to be prepared to stick with what we say we have to have when that is done, and not keep saying then you have to have something else. It is a very disappointing way to wind up this session.

I yield to the Senator from Alaska.

Mr. MURKOWSKI. Relative to reviewing the list of 126, it affects Senators from Oregon, Utah, Virginia, California, Alaska, Louisiana, Mississippi, Maine, Vermont, Idaho, Washington, Missouri, to name a few, and in some cases, parks in every State. These are States affected by the administration's announcement last night they wanted 46 more out. These are the States that are affected. This is after an extended hearing process. We reported these out, and we have withdrawn those the administration initially listed as objections that they would veto.

I have personally met with my conferees by telephone relative to trying to clear this, and as the leader has pointed out, a technical correction in the House has been taken care of. We can pass this. We can move it right now if there is no objection. Otherwise, we will have to wait for another session, the 105th Congress, to start this process that we spent over 2 years on, which benefits virtually every State in the Union with very meaningful projects, including the Presidio and cleaning up the San Francisco Bay area.

I urge the leader to continue to work in every manner, because time is running out on the biggest and most important parks public land package in two decades. We are ready to move forward and pass this legislation. If we cannot proceed, it would truly be a shame, because on both sides, Democrats and Republicans will not see——

Mr. LOTT. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield to the Senator.

Mr. LOTT. I thought there was going to be a meeting last night between key players on both sides of the aisle to meet with the administration and see if some compromise could be worked out. I am told that meeting never occurred.

Mr. MURKOWSKI. The majority leader is correct. We were ready to have the meeting, and we were advised by the White House representative that they had no authority and were not familiar with the specifics of the bill and they wanted us to submit a bill, items which we would agree to take out.

As chairman of that committee I feel a responsibility, bipartisan, both Democrats and Republicans, to try to represent them in a conference mode as opposed to arbitrarily taking out their sections to accommodate the administration.

We have, for Senator HEFLIN, who is retiring, Selma to Montgomery Historic Trail designation, the historic black college funding; for Senator SIMON and Senator MOSELEY-BRAUN, the Illinois and Michigan canal, Calumet Ecological Park study; for Senator JOHNSTON and Senator BREAUX, Civil War Center, Louisiana University, the Laura Hudson Visitor Center; Senators KENNEDY and KERREY, and retiring Congressman STUDDS, Boston Harbor Islands park establishment, Blackstone heritage area, New Bedford establishment.

I cannot understand why, after all this work, there is still objection. I encourage the majority leader to continue to work on, and I stand ready to try to meet the objections of my colleagues. I understand there is a hold now from the administration, and I think it is fair to say we have an obligation, certainly, relative to a process here, and as an authorizer, if the White House is going to line-item veto everything, we might as well go out of business.

I encourage the majority leader to continue the effort because we are not very far away, and I stand ready to be here all night if necessary, come in and meet with any group, to try to address this.

I thank my colleague.

Mr. LOTT. I yield to the Senator from Oklahoma.

Mr. NICKLES. One, on the parks bill, I want to commend Chairman MURKOWSKI and other members on the Energy Committee who worked hard to make

this happen. This is a large bill, and unfortunately now it has a lot of items throughout the year that many of us have been working on for a long, long time.

The Senator from Alaska has been generous enough to withdraw one of the bills he felt very strongly about, that was important to his State, so we could get it signed. I asked him to do that. I appreciate his willingness to do it.

The Senator from Minnesota dropped an item. Again, we heard it being in there meant it would be vetoed, so we dropped two or three of the most contentious items. We dropped a project in Utah that, again, other people talked about would bring a certain veto.

Now, all of a sudden—we thought we had really taken away the veto objective so we could pass this bill. I committed to the Senator from California that I would try to help pass the Presidio bill this year. I want to maintain that commitment. I would like to pass this bill.

I urge my colleagues to work together. This bill has been put together in a bipartisan fashion. I have not counted up the number of Democrat and the number of Republican bills, but there are a lot on both sides of the aisle that impact parks all across the country and most of the States across the country. It would really be a shame to have that much work and that much time invested in that bill not to see it passed this year.

I compliment my colleague from Alaska and also the majority leader. I hope we will find a way to be able to work out the differences and pass this bill and get it signed into law before we adjourn the 104th Congress.

Let me make an announcement on behalf of the majority leader. I announce there will be no further rollcall votes tonight. The Senate obviously will be working tonight, in various conferences, trying to work out differences both on the continuing resolution and on the immigration and the parks bill. There will be work done tonight but there will be no further rollcall votes tonight.

I announce on behalf of the majority leader the Senate will reconvene at 10 a.m. tomorrow morning and we will try to give as much advance notice to all Senators prior to any recorded rollcall votes. As of now, there has not been one ordered, but Senators should stand on notice there may well be a recorded rollcall vote in the event we are able to come to an agreement on the continuing resolution, the parks bill or the immigration bill.

I thank my colleague from Kentucky.

Mr. MURKOWSKI. I wonder if I may be recognized for 1 minute relative to advising my colleagues of the status of the parks omnibus package.

It is my understanding that the appropriations subcommittee chairman has indicated it will not include specific items taken from the park omnibus bill and put on the appropriation CR. Now, that is a matter outside the control of the Senator from Alaska as chairman of the Energy and Natural Resource Committee. I think that has been clearly stated, and it has been reinforced by the Speaker of the House.

What I am encouraging, obviously, is that we proceed with this package. I agree, if it is in the interests of my colleagues to put the package on the appropriations as an entire package, I have no objection to that. Otherwise, the alternative is to proceed as we have, try to address the objections from the other side, and get on with it.

For those who think we will cherry pick it out and put specific portions on the appropriations CR and pass it there, that is not going to be an available alternative. We will simply lose for this year and have to start again. I hope that will not happen.

Mr. FORD. Mr. President, we are getting into a position where everybody seems to think we have to get out. Our salary still goes on. We still get paid whether we are here or not. I think we might as well stay here and earn our keep. We do not have to get out tomorrow. We do not have to get out Monday. We do not have to get out next Friday. We can go ahead and pass a continuing resolution and we could stay here and pass some bills or we can give a short-term continuing resolution for 3 or 4 days and we can work things out.

But we appear to be pushed up against a wall: you have to get out, got to do this, or it is dead. There is no such thing, unless the majority leader wants to take us out, and then things are dead.

I feel like we are being pushed awfully hard here just because tomorrow night we want to get out or Monday we want to get out. I understand everybody wants to go home and campaign. Let them go home and campaign, and the rest of us can stay here and work. That suits me fine.

FAA REAUTHORIZATION CONFERENCE REPORT

Mr. FORD. Mr. President, I want to make one comment about the express carrier we got the objection on to the FAA. I have been advised by legal counsel—not representing either side in this controversy—that every fact of law has sustained the express portion of the ICC bill. It was to be in there because nothing should be narrower or wider. Nobody should get anything when they pass the ICC legislation.

So I understand where we are coming from, and I understand whose fight it is in. I hate to be in the catch-22. We can stay a while if that's what they want to do, offer a cloture petition, and we will have 30 hours, and we can drive right on. I don't mind staying here. I don't want to any more than anybody else. But if that's the way the game is going to be played, I understand how to play it. If we get 60 votes, then we will have to vote on it. If we have to vote on it and we pass it, then it goes to the President. That is the end of it.

If you want to stay around a while, keep objecting to this one, file a cloture petition, we will get cloture and get our 30 hours and do our thing around here, Mr. President.

THE BOUNDARY WATERS CANOE AREA WILDERNESS

Mr. GRAMS. Mr. President, I rise today to speak on behalf of the people of northern Minnesota about an issue that symbolizes for us the difference between what the role of government should be and what it has become. I am speaking, of course, about the current struggle to restore the rights of the citizens to have reasonable access to the cherished Boundary Waters Canoe Area Wilderness [BWCAW].

My colleague from northern Minnesota, Congressman JIM OBERSTAR, and I have unfortunately spent our days fighting a campaign of distortions and misinformation by a national coalition of special interest groups that want this national treasure for themselves: their private research territory not to be touched by what they view as the unclean, ignorant citizens of northern Minnesota. I believe a brief history of this controversy is needed if we hope to carry on an honest and reasonable debate on how best to resolve it.

In 1978, 1 million acres in northern Minnesota were designated by Congress as our Nation's only lakeland-based Federal wilderness area. By establishing the BWCAW, Congress rightfully acknowledged the need to protect the tremendous ecological and recreational resources within the area, with the understanding that it was to be a multiple-use wilderness area, as first envisioned by Senator Hubert Humphrey in 1964.

When Senator Humphrey included the Boundary Waters as part of the National Wilderness System, he made a promise to the people of Minnesota, saying "The wilderness bill will not ban motorboats." It is safe to say that without that commitment to the people of northern Minnesota, this region would not be a wilderness area today.

In 1978, additional legislation was passed making further enhancements to the protection of the Boundary Waters, such as a justified ban on commercial activities like logging and mining. The 1978 law also limited recreational uses. For instance, motorboat users could only use 18 of the 1,078 lakes within the region.

Under the 1978 law, however, motorboat users were given the right to access some of these motorized lakes

through three portage trails. Trucks and other mechanized means could be used to transport boats, canoes and people across the three portages from one lake to another. While many northern Minnesotans believed the 1978 law unduly restricted their boating privileges, they were comforted that these three mechanized portages would continue to allow reasonable access for everyone—from the young and the old to the strong and the weak—into many of these motorized lakes.

The intent of Congress was altered in 1993 when environmental extremists succeeded in a lawsuit to close these portages to mechanized transport. As a result of this court order, visitors can only transport their boats now by carrying them on their backs or with pieces of equipment which are pulled like a wagon. That is great fun for the young and strong, but wrenching work for those who are elderly, disabled, or traveling with children.

To illustrate the importance of allowing mechanized transport of boats over these portages, I wanted to show these pictures taken at Trout portage, one of the portages in question.

As you can see, the physical requirements of dragging boats across these portages have placed an obvious roadblock to the open access guaranteed to the public by law.

What is worse is that this court order came as the result of legalistic trickery by the radical environmentalists who filed the lawsuit—a deception they readily admit to and describe in great detail in a book they wrote entitled "Troubled Waters."

According to their book, the compromise worked out between the attorneys representing the radical environmentalists and the people of northern Minnesota, which was adopted in the 1978 law, allowed portages to use mechanized transport if the U.S. Forest Service determined that a feasible nonmotorized alternative could not be established.

In 1989, the Forest Service, after careful study, did in fact make that determination, thereby keeping the portages accessible to all.

But unbeknownst to the people of northern Minnesota, and apparently the U.S. Congress, the term "feasible" did not have the same meaning in environmental law as it does in everyday English.

According to "Troubled Waters," a "feasible" alternative could, under law, permit something that was possible only from an engineering standpoint, regardless of whether it would take longer, be less convenient, or even be, and I quote the preservationists' own words, "downright tortuous."

The extreme environmentalists go on in their book to describe how their attorney did not even bother to tell the attorney representing the interests of northern Minnesota about their sleight-of-hand gamesmanship.

In other words, they purposely salted the deal with words they knew they would later challenge in court.

It was under this narrow interpretation of the word "feasible" that a federal appeals panel ordered the portages closed, after reversing a lower court decision which determined that a group of healthy, able-bodied people could not always transport these boats using muscle power and portage wheels. And so for four years, these portages have been effectively restricted from use by the elderly and disabled.

By the way, the word "feasible" means that the Ely football team or dog sleds can maybe help do this, but in other words it restricts an average person's ability to be able to get access to the park.

Since the court decision, the number of motorboats transported across these portages has significantly decreased.

Even more telling are the letters I have received from Minnesotans who have been shut out of the land they once called home.

John Novak, a veteran from Ely, MN, wrote me about his frustration with the closing of the portages, saying:

> I was good enough to go into the armed services for our country for 3 years back in the forties. Now that I am disabled, I am not good enough to get in the Boundary Waters Canoe Area Wilderness.

I received another letter from a young man from Virginia, MN, named Joe Madden who wrote "I went to visit the Boundary Waters with my grandfather. We wanted to go fishing in Trout Lake, but we could not get there because we could not get my grandpa's boat over the portage. Can you please open it up so Grandpa and I could go fishing?

These are just two of the many letters and requests sent to me by average, hard-working Minnesotans who have seen the promises made to them long ago by the Federal Government broken and forgotten over the years—people who rightfully believed that the Government was meant to work for them, but found out just the opposite.

It is these people—the men, women, and children of northern Minnesota—whose crusade Jim Oberstar and I have carried to the Halls of Congress in trying to reopen the three portages in the Boundary Waters.

In the 104th Congress alone, there have been a number of developments bringing us to the point at which we find ourselves today.

Eight Minnesota State legislators—all Democrats—asked me to request a field hearing on this issue.

The Senate Energy and Natural Resources Committee then held a field hearing in International Falls, MN, on issues surrounding the Boundary Waters and Minnesota's Voyageurs National Park.

A second field hearing was held in St. Paul at the request of my colleagues from Minnesota, Senator WELLSTONE and Congressman BRUCE VENTO.

This year, Congress has held three committee hearings in Washington on bills introduced by Congressman OBERSTAR and me to reopen the portages, and provide the public greater input into how the Boundary Waters and Voyageurs National Park are managed in the future.

At each of these hearings, a major display of opposition was organized by the extreme environmental special interests groups and their allies in Congress against our bills.

As a result, Senators with little knowledge or legitimate interests in the Boundary Waters were scripted to pronounce the bills dead on arrival and to make unbiased charges that we introduced our legislation for political reasons—criticisms which ignored the clear bipartisan nature of our work.

This organized campaign of disinformation and propaganda placed a significant obstacle against our hopes to move these bills through the committee process, leaving us and the taxpayers of Minnesota, who we represent, with few legislative options to resolve the problems facing the people of northern Minnesota.

While many contentious issues surround the management of these two national treasures, no issue more perfectly symbolizes the failure of the Federal Government to live up to its proper role of serving the people than that of the three portages.

The same radical environmental individuals engaged in Senator WELLSTONE's mediation effort have claimed that any portage changes are "non-negotiable." And yes, the same environmental lawyer who came up with the word "feasible" is part of this mediation effort. Congressman OBERSTAR and I persuaded the managers of the conference committee considering the omnibus parks bill to include a compromise provision which would reopen the Trout, Prairie, and Four-Mile portages to the elderly, disabled, and everyone who did not have a washboard stomach.

We hoped that at long last, the people of northern Minnesota would finally have their voices heard in Congress.

But once again, those same special interest groups—who had fooled the people of northern Minnesota in 1978, closed the portages in 1993, and used their influence to block our bills from the committee process this year—struck again, soliciting letters of opposition from Senators outside of Minnesota and even a veto threat from the White House.

The compromise was pulled out of the conference report late Tuesday night—and the people of northern Minnesota were shut out once again.

I am disappointed by this turn of events—not so much for myself and

Congressman OBERSTAR, though we have put much time and effort to get the portages reopened—but rather for John Novak, Joe Madden, and the thousands of northern Minnesotans who were counting on this Congress to begin righting the wrongs of the last two decades.

You see, we in Minnesota still honestly believe in the words of President Lincoln that this is a "government of the people, by the people, and for the people."

These words and the principles of democracy they embody have been passed down from generation to generation—the uniquely American idea that Government should work in the interests of the people, not against them.

But somewhere down the line, that idea was forgotten by those Federal officials and bureaucrats who have been serving the radical environmental cabal, rather than for those hard-working taxpayers in northern Minnesota who ask for so little.

It is not surprising that the people of northern Minnesota are questioning just whom the Federal Government really serves.

It was President Clinton—yes, the same President Clinton whose White House threatened to veto the portages compromise—who said "There is nothing wrong with America that cannot be fixed by what is right with America." In taking up the cause of the people of northern Minnesota, I embrace those words and only slightly modify them to say "There is nothing wrong with the federal government that cannot be fixed by what is right with the American people." And it is what is right about our fellow Americans that keeps me hopeful that we will indeed resolve this issue in a way that best suits those Minnesotans who I am proud to represent in the Senate.

We may not have the money that the radical environmentalists do, or have at our disposal the highly-paid lobbyists and lawyers who are working against us—but we do have something more important than all of that. We have the truth on our side. And we are working for the same thing every American wants from our government: accountability to the people.

Accountability means balancing the protection of our pristine wilderness with the rights of the people to enjoy our natural resources. It means restoring the promises made in the past and establishing a partnership with the people to ensure those promises will be honored in the future. And it means keeping the Federal Government in check to guarantee that it works for the best interests of the people.

We who love the Boundary Waters Canoe Area Wilderness are working toward—and will continue to work toward—those goals. I am pleased to have a commitment from the distinguished chairman of the Senate Energy and Natural Resources Committee for an early markup of this common-sense reform effort in the next Congress. We will not stop our efforts until the principles of democracy are embodied in the future management of this beautiful national treasure. The people of northern Minnesota will have their voices heard in Congress, past injustices will be remedied, and the promises made so long ago by Senator Humphrey will be kept.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes according to the previous order.

NOMINATION OF NAVY CAPT. JEFFREY A. COOK

Mr. GRASSLEY. Mr. President, I want to discuss an issue I have with the Armed Services Committee.

On May 15, 1995, I wrote a letter to the chairman of the Committee, my friend from South Carolina, Senator THURMOND.

This was a very important letter.

It concerned the nomination for promotion of Navy Capt. Jeffrey A. Cook.

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

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

CHARLES E. GRASSLEY,
U.S. SENATE,
Washington, DC, May 15, 1995.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR STROM: I am writing to raise questions about the pending promotion of Navy Captain Jeffrey A. Cook to the rank of rear admiral (lower half).

My questions about Captain Cook's fitness for promotion pertain to his service as the A-12 class desk officer during the period 1987 to 1990. In that capacity, he was the chief engineer for the A-12 stealth bomber program and the principal adviser for engineering matters to the A-12 program manager, Captain Lawrence G. Elberfeld.

A-12 CRIMINAL INVESTIGATION

The main source of my concern about Captain Cook's qualification for promotion are the results of a criminal investigation. The investigation was conducted by the Chicago Field Office of the Defense Criminal Investigation Service, Department of Defense Inspector General (IG). The report on the investigation is dated April 20, 1994, and carries the designation 9011045M-20-SEP-90-40SL-E5A/D.

The purpose of the criminal investigation was to examine allegations that "U.S. Navy and DOD [Department of Defense] officials may have concealed or conspired to conceal, or otherwise thwart, the dissemination of adverse A-12 program information to the DOD and to Congress."

The investigation found several specific instances in which former Secretary of the Navy H. Lawrence Garrett and other Navy A-12 program officials "withheld, concealed, and/or suppressed adverse A-12 program information" from cognizant DOD and Navy oversight personnel and from Congress. Both Mr. Garrett and Captain Elberfeld are accused of withholding relevant documents and material during an official inquiry and subsequent congressional oversight hearings. Worse still, the report suggests that Mr. Garrett may have in fact destroyed important evidence during the criminal phase of the investigation.

Based on the results of the investigation, the Inspector General concluded there were reasonable grounds to believe that Federal criminal law had been violated. Therefore, all the detailed information related to the actions of Secretary Garrett were referred to the Department of Justice for possible prosecution. Similarly, the case against Captain Elberfeld was referred to the Office of the Judge Advocate General of the Navy for possible court-martial. Captain Elberfeld was suspected of violating various articles of the Uniform Code of Military Justice, including article 907—pertaining to false official statements. In both cases, a decision was made not to prosecute.

CAPTAIN COOK'S POSSIBLE ROLE IN A-12 COVER-UP

Now, this is the issue that must be addressed on the pending nomination: Did Captain Cook allow himself to be drawn into the web of deceit spun out by former Secretary Garrett and Captain Elberfeld? Was Captain Cook a willing or unwilling participant in the scheme to withhold and conceal adverse information on the A-12 program?

On the surface, Captain Cook's performance appears to have been exceptional. He is the only Navy official I know of who was critical of the program, and the investigators say he is the only person who was "open and cooperative" during the probe. His criticism came in the form of several briefings in which he "identified severe technical problems with the A-12 program." These briefings are discussed in the IG's investigative report. His criticism was very much to his credit.

While his critical technical assessments were commendable, I fear they may have been nothing more than a clever bureaucratic "cover-your-fanny" operation. This is the scenario I visualize. Captain Cook would present a briefing identifying "severe technical problems," but in the face of opposition and pressure from Captain Elberfeld and more senior officers, Cook would quickly back down. Without further protest, Captain Cook would then join Captain Elberfeld in pumping out false and misleading status reports on the A-12. In the end, I think, Captain Cook acquiesced in the scheme to conceal adverse information on the program.

The incidents described on pages C29 to C31 of the investigative report seem to lend credence to idea that Captain Cook went along with the coverup.

On April 16, 1990, Captain Cook provided one of his briefings to a group of senior officers, including Vice Admiral Richard C. Gentz, Commander of the Naval Air Systems Command. In the briefing, he identified "severe technical problems" that could "slip" the program for at least one year. After hearing that piece of bad news, Admiral Gentz told Captain Elberfeld to "re-assess" the A-12 program and report back to him with solutions within 24 hours. As I understand it, Captain Cook helped Captain Elberfeld prepare a "revised" technical update briefing for Admiral Gentz. This is where Captain Cook seems to have taken a 180 degree turn in his thinking. He did an

about-face and worked with Elberfeld late into the night, twisting and distorting the facts, turning his own assessment upside down, helping Elberfeld put a favorable spin on the status of the program. After their night of handy work, Admiral Gentz felt the one-year "slip" was unnecessary, leaving the money spigot wide open. That particular piece of work came at a very critical point in the program. (Refer to page C-31)

Captain Cook also participated in the confiscation and suppression of a devastating report on the A-12 program. This incident occurred in February 1990 and is described on pages C-29 to C-30 of the investigative report.

The highly critical evaluation was prepared by Mr. Ed Carroll, a civilian production analyst assigned to the Office of the Secretary of Defense. His report predicted a one-year "slip" in the program. The Carroll report was "confiscated"—allegedly for a security violation—and "relinquished" to Captain Cook. He subsequently turned it over to one of his subordinates, Mr. John J. Dicks. When investigators discovered the Carroll report buried in A-12 program office files, attached to it was a handwritten note by Dicks. The note stated in part: "Keep this package quiet and close controlled." As a result of Cook's actions, the highly critical Carroll report never saw the light of day. The handling of the Carroll report suggests to me that Captain Cook could have played a role in concealing adverse information on the A-12 stealth bomber.

HOLDING CAPTAIN COOK TO A HIGHER STANDARD

Strom, as I said, compared to other A-12 program officials, Captain Cook's performance was exceptional. It makes him look like a hero. But in making that comparison, we are holding him to a negative standard. A candidate for promotion to rear admiral must be held to a much higher standard—a standard of excellence. When that is done, I don't think Captain Cook measures up.

There is a fundamental principle of leadership: "Seek Responsibility and Take Responsibility for your Actions."

At the time, the A-12 was a top priority Navy program. As chief engineer on the project, he had identified a major technical problem that posed a very real threat to the viability of the whole program. It was a "show stopper"—a problem that had to be fixed. He was responsible for developing a sound and timely solution to the problem. He had a responsibility to follow through. He was fully accountable for that problem. A man in his position should not wait for his superiors to tell him what to do. He needed to take the initiative and solve it—with the approval, of course, of his superiors. However, when those over him balked at his solutions but at the same time refused to even address "show stopper" problems, then he had a responsibility to confront them and push it up the chain of command. For example, he would have sent a written report up the chain of command to the top DOD acquisition "czar"—if necessary, laying out his view of the problem.

Unfortunately, Captain Cook's protests ended where they began—in his briefings. Had he pushed them further up the chain of command, he would have run the risk of ruining his career. Doing the right thing almost always involves risks and even danger. Doing what must be done takes courage, commitment and integrity. Had Captain Cook pursued the more risky solution, he would have set an example of excellence. No aspect of leadership is more powerful that setting a good example. Had he done it, Cook would have been a role model for all to respect. Strom, we must judge Captain Cook against such a standard of excellence.

A candidate for promotion to rear admiral should demonstrate certain outstanding leadership qualities including courage, competence, candor, commitment, and integrity. In my mind, Captain Cook failed to demonstrate those skills as chief engineer on the A-12 project. His superior officers told him to do the wrong thing, and he did it. He failed to stick to his beliefs. He failed to act on the information he had. He failed to demonstrate a solid commitment to solving the engineering problems that he had identified and for which he was accountable.

OVERALL IMPACT OF A-12 MISMANAGEMENT

The failure of former Secretary Garrett, Captain Elberfeld, Captain Cook and others to confront major technical problems on the A-12 in an open, honest, and timely way has had a profound, long-term negative impact on the Navy.

The A-12 was supposed to begin replacing the Navy's aging fleet the A-6 bombers in 1994. That was last year. Well, there are no A-12 bombers in the fleet and never will be. All the money spent on the A-12—nearly $3.0 billion—was wasted. We have absolutely nothing to show for it.

The A-12 program was terminated for default in January 1991. Former Secretary of Defense Cheney killed the program because it was way over cost and way behind schedule, and no one could tell him how much money it would take to finish it. To make matters worse, the two A-12 contractors—McDonnell Douglas and General Dynamics—are suing the Government for billions. And the Government's case is weak. It's very difficult to blame the contractors for what happened when top Navy officials like Garrett, Elberfeld, and Cook all knew the program was in deep trouble but did nothing about it. They just kept shoveling more money at the contractors in the form of fraudulent progress payments—payments made for work that was not performed. In all probability, we are going to end up spending even more money on a dead horse—mainly because people like Garrett, Elberfeld and Cook didn't do their jobs. Had any one of them done the right thing, the A-12 might be in the fleet today.

Strom, I only ask that you review the IG's investigative report and determine what role, if any, Captain Cook played in the scheme to withhold and conceal adverse information on the A-12 program.

I also ask that Captain Cook's performance not be evaluated against the performance of the other A-12 program officers. I respectfully request that he be judged against a much higher standard of excellence. Please let me know what you decide.

Your consideration in this matter is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, this letter raised several very serious questions about Captain Cook's fitness for promotion to the rank of admiral.

Specifically, my questions about Captain Cook pertained to his service as chief engineer on the A-12 stealth bomber project that was terminated for default in January 1991.

The A-12 project collapsed because of an unresolved engineering problem—uncontrolled increases in the weight of the airplane.

It was a "show stopper," and Captain Cook was up to his ears in the whole mess.

As the weight of the airplane grew, the schedule kept sliding, and the price kept going up.

Eventually, this top priority Navy program was buried in a massive cost overrun.

This kind of mismanagement was bad enough by itself.

But A-12 mismanagement became a criminal enterprise when senior Navy officials attempted to conceal and cover up the cost overrun with lies.

They attempted to hide the problem from the Secretary of Defense and the Congress.

This behavior triggered a criminal investigation by the Inspector General [IG] of the Department of Defense.

The IG concluded that Federal criminal laws were violated, and the case was referred to the Justice Department for prosecution.

The investigation found several specific instances in which the Secretary of the Navy at the time, H. Lawrence Garrett, and A-12 program officials "withheld, concealed, and/or suppressed adverse A-12 program information" from the Secretary of Defense and the Congress.

That is a quote from the IG's criminal report.

I also believe the IG report shows that Captain Cook may have participated in the scheme to conceal and suppress adverse information about the program.

These are very serious allegations.

They need to be addressed and resolved.

Maybe the Committee conducted an investigation and cleared him, but I do not know that. The Committee has never bothered to tell me about it.

So I was very surprised and very disappointed to find Captain Cook's name on a July 1996 list of "United States Navy Flag Officers."

He has been confirmed and "frocked."

That means he wears an admiral's insignia but is still paid as a captain.

Once an admiral's billet opens up, he will assume the full duties and responsibilities of an admiral.

Mr. President, I think the Committee owes me an explanation.

Mr. President, on September 27, I wrote a second time—1½ years later—to Senator THURMOND, asking for a response.

I ask unanimous consent to have this second letter printed in the RECORD.

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

UNITED STATES SENATE,
Washington, DC, September 27, 1996.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR STROM, I am writing to follow up on my letter of May 15, 1995, regarding the nomination for promotion of Navy Captain Jeffrey A. Cook.

In my letter to you of May 15, 1995, I raised several very serious questions bearing on Captain Cook's fitness for promotion to the rank of admiral. My questions were based on a criminal investigation conducted by the Inspector General of the Department of Defense. These questions pertained to his service as chief engineer on the A-12 stealth bomber project that was terminated for default in January 1991. These questions suggest that Captain Cook may have participated in a scheme to conceal adverse information on the A-12 from both the Secretary of Defense and Congress.

In view of these allegations and since I never received a response from you, I was very surprised and disappointed to find Captain Cook's name on July 1996 list of "United States Navy Flag Officers." This list indicates that he has been confirmed and "frocked." Once an admiral's billet becomes available, he will assume the full duties and responsibilities of the rank.

Would you be kind enough to explain how your Committee resolved the questions raised in my letter of May 15, 1995. Had I known that your Committee was prepared to proceed with this nomination, I would have liked to have had an opportunity to raise my objections on the floor. Strom, we in the Senate have a Constitutional responsibility to nurture topnotch leadership in the Armed Forces. Officers who meet those high standards should be praised and promoted. Those who fail to meet the high standards should be weeded out.

I would appreciate a response to my letter.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senate.

Mr. GRASSLEY. Had I known the committee was prepared to confirm Captain Cook, I would have asked for an opportunity to raise my objections on the floor.

Mr. President, we in the Senate have a constitutional responsibility to nurture topnotch leadership in the Armed Forces.

Officers who meet those standards should be praised and promoted.

Those who fail to meet those high standards should be weeded out.

Based on what I know right now today, I do not think Captain Cook meets the highest standards nor should have been promoted to admiral.

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

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 2150 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. I thank the Chair. Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the Senator from South Carolina have whatever time he may consume for a tribute—about 4 minutes; that following his remarks, Senator WYDEN and I speak as in morning business for a period not to exceed a total of 20 minutes.

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

The Senator from South Carolina.

RETIREMENT OF SENATOR ALAN SIMPSON

Mr. THURMOND. Mr. President, I rise to pay tribute to one of the finest men I have had the privilege to serve with in the U.S. Senate. I refer to my very good friend, the senior Senator from Wyoming, ALAN SIMPSON, who is retiring from the Senate. AL SIMPSON comes from a family with a rich Wyoming heritage.

Mr. President, from territorial days to the present, the Simpsons have made Wyoming justifiably proud of their distinguished public service. His father, Milward, served as Governor and then came to the Senate in 1962. Like his father, AL has a wonderful sense of humor, even if it is sometimes a bit ribald. He calls a sense of human "the universal solvent against the abrasive elements of life." I know of no one who lives up to that motto like my friend, AL SIMPSON.

AL has other sterling qualities that have made him one of the best-liked members of the Senate on either side of the aisle. His personal warmth, his integrity, his loyalty, his sense of fairness, and his willingness to listen to the concerns of his colleagues were attributes that allowed him to do a superb job as assistant Republican leader for 10 years.

Bob Dole could not have had a more loyal "deputy" than AL. President George Bush never had a more loyal friend than AL. AL spent countless hours on the floor of the Senate and in the media as an advocate and defender of his friend, President Bush.

I have served many years in the military and in combat as well and I can attest that AL is the kind of loyal friend who you would want by your side in battle. That includes legislative battles, too. For 18 years—at my initial urging—he served with me on the Senate Judiciary Committee. We have been through a great deal of controversial legislation and nominations together. We have worked together side by side with never a cross word and always the highest level of mutual respect and friendship.

When he leaves the Senate, he will leave behind a legacy of great legislative achievements, particularly in the area of immigration. Early on, AL was willing to take on the tough job of being the Republican's subcommittee leader on immigration. While serving as chairman of the Judiciary Committee, I appointed AL as chairman of the Immigration Subcommittee. No one appreciates his work more than I. Immigration issues are often emotionally charged. It takes a very talented legislative leader to shepherd significant immigration legislation through Congress. AL has done it with great effectiveness throughout his career, and in this last week of the 104th Congress he once again is about to lead us in the passage of an illegal immigration reform bill of which he can be very proud. He authored the Senate bill, and his influence on the final conference report is without peer.

He is tough, but fair, and his word is his bond. Accordingly, he is justly recognized by his colleagues on both sides of the aisle as an incredibly skillful legislator.

He is married to one of the most gracious, attractive ladies I have known. As AL tells it, Ann Simpson got more votes for him than he did for himself. She is much more than an effective campaigner. She has made wonderful contributions to her State and the Nation through her work on mental health issues, through her efforts on behalf of Ford's Theater, and in her work for the University of Wyoming, particularly the art museum there.

I know that cowboy AL SIMPSON is not going to "ride off into the sunset." He will maintain an active, stimulating life. His first venture will be a professorship at Harvard University. I am sure his students will be treated to some unforgettable AL SIMPSON stories which will evoke both laughter and warmth.

I will deeply miss that daily dosage of AL's humor and warmth. However, I am confident that we will continue to see each other and the real friendship which we have will endure.

God bless both AL and Ann Simpson in all their endeavors.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I certainly join with the distinguished chairman of the Senate Armed Services Committee in that tribute to Senator SIMPSON. I think we will all miss his daily dose of wit. And I certainly share those sentiments.

Mr. THURMOND. I wish to thank the able Senator.

THE GAG RULE AMENDMENT

Mr. KYL. Senator WYDEN and I want to take a few minutes right now to try to brief our colleagues, as well as our constituents and others, who have been interested in the issue on the status of the so-called gag rule amendment. That is not perhaps a very glamorous name for what we are talking about, so let me describe that briefly. Then we will try to provide a report, as I said, about the status of the negotiations and how we might try to conclude this matter.

People have heard the distinguished majority leader speak on several occasions about the effort to resolve this question. I think we are very close to it

and want to report that to our colleagues. First of all, what we are talking about is an assurance for physicians that they are able to communicate freely with their patients about their patients' health and about the medical care or treatment options that might be important for their patients' health.

When these physicians are a part of a plan, like an HMO, for example, they are constrained in certain ways with respect to what the plan provides in the way of coverage and, therefore, in the way of treatment. So this issue has evolved.

To what extent can the HMO limit the physicians in their communications with patients? Well, virtually no one wants to create that kind of a conflict, at least intentionally, because clearly the physician has an obligation to his patient, and we all want the patients to have the maximum degree of care. So we want to ensure that this communication is not inhibited. What we have been involved in over the last several days is trying to craft legislation that is not overly broad but still ensures that degree of protection.

We have also tried to ensure that this is done to the maximum extent possible at the State level. We are not interested in some kind of a new Federal mandate or new Federal program here. But, of course, we do at least need to get the process started here so that the States who have not yet adopted statutes—and many have—but for those who have not done so yet, that there would be an incentive for them to provide the kind of protection for the kind of communication which we are talking about.

We also want to ensure that there is a conscience clause provision here that enables physicians who, for moral or religious beliefs, do not want to get into certain discussions, that they would not have to do so, and, likewise, that a provider, an HMO or other kind of insurer that may have based its benefits on its beliefs, including religious beliefs, be protected as well.

So these are not necessarily easy issues, but I think in terms of a general concept, there has not been a great deal of disagreement. But nevertheless, trying to put this all together at this time of the year has not been real easy.

I want to thank several people for their involvement in this, in particular the majority leader, who has been most patient in waiting for us to try to get this resolved; the assistant majority leader, who has been personally involved in discussions on this to try to craft it in the right way; Senator DAN COATS, who has been involved; and several others who have expressed an interest and given their input.

Senator WYDEN and I have developed a series of drafts. Our most recent draft, we think, is a very good product which achieves this goal but with the minimum of difficulty. As we speak, even this draft is being revised to some extent to try to reflect the views of other Senators.

I urge that anyone who has an interest in this issue and would like to give us their views, or who has heard about a particular version of this and would like to know what the actual most current version of it is, that they please communicate with us because we would be most pleased to share our ideas with them and to get their ideas as well.

The majority leader would very much like to get this wrapped up. We would, too. Therefore, again, I thank those who have been involved. We stand ready to try to wrap it up if people will give us their views. But I think we have come to a point now where there are not very many issues that prevent us from doing this. I really urge any Senators who have an interest to help us bring this to conclusion.

Under the previous agreement, at this time I yield the floor to Senator WYDEN.

Mr. WYDEN. I want to thank the Senator from Arizona for not just his very thoughtful statement, but for all of the effort over these last few weeks. He and I got to know each other in the House and enjoyed working together, and it has been a pleasure to work with my friend from Arizona on it. I share Senator KYL's view that we have had a number of Senators—I see Senator NICKLES is here and Senator COATS on the Republican side; Senator KENNEDY, for example, on the Democratic side—that have been working some very long hours and working in good faith to try to deal with this. I believe we are now very close in terms of dealing with the issue.

I just want to spend a minute and try to outline the problem and then talk a bit more about some of the remedies that Senator KYL has talked about.

The reason this issue is so important is that managed care is the fastest growing part of American medicine. Now, health care, we know, is a multibillion dollar industry. The fastest growing part of it is managed care. I want to make it clear that there is a lot of good managed care in our country. I come from a part of our Nation, the State of Oregon, that has been a pioneer in the managed care field. We have seen good managed care. If you want to see 21st century medicine, you can come to my State and see a lot of it in action every day.

But, unfortunately, too often we have seen that financial concerns, concerns about expensive treatments or referrals, have replaced what is the important essence of American health care, which is free and unfettered communication between doctors and patients.

These limitations are what is known as gag clauses. A health maintenance organization may say to the doctors, "We're watching you in terms of those expensive treatments." Or the health maintenance organization will say to the doctors, "We're keeping track of the referrals that you're making," with an idea that perhaps a doctor who tells about an additional provider outside the network is doing something detrimental to the plan.

We can have differences of opinion—and Senator KYL and I have talked about this before—on a lot of health care issues. Reasonable people surely differ with respect to the role of the Federal Government, the role of the private sector. There are lots of issues in American health care that there can be legitimate differences of opinion on.

I offer up the judgment that what should never be in dispute is the importance of patients and families to get all the facts, to get the truth, to get all the information about the various issues relating to their medical condition and the treatments that are available. In fact, I think 21st century health care is about getting information over the Internet. The kind of legislation we are talking about today is going to be built around empowering patients to get the information so as they look at the various options that they might consider for their treatment, they can do it on the basis of having all the facts.

Now, Senator KYL has outlined briefly a few of the issues that we have focused on in some depth. Let me just add to them very briefly. The first is on the matter of the regulatory framework and the role of the Federal Government and the States. What Senator KYL and I have done, in very blunt, straightforward terms, is make it clear the States will take the lead with respect to carrying out this statute. Congress has done this before in a number of areas, done it in the Medigap area, done it in the maternity stay legislation. The legislation that we offer up and is based on our discussion, basically makes it clear when a State acts in a way that is rationally connected to the purposes of this statute, the State is going to be in a position to take the lead.

Second, we know there are many who are concerned with respect to an issue that comes up in this body quite often, and that is reproductive health issues, in the matter of abortion specifically. We have sought to make sure that each individual practitioner or doctor can exercise what amounts to a "conscience clause" and be able to express that for religious or moral reasons, there are certain matters—abortion—that they would not be comfortable discussing. We also thought to make it clear that plans would have certain rights, particularly to make it clear to their individual practitioners, doctors, and others, that the plan did not offer abortion services.

There are other ideas that may be worth exploring, built principally on

the concept of disclosure. Plans ought to know they are not going to be subject to unexpected legal consequences, and the consumer ought to be in a position to get full disclosure of exactly what their plan offers. I believe we have made considerable headway in that regard.

We believe, with a bit more work and the kind of good faith we have seen over these last few weeks—and it is important to note that the same spirit exists in the House. Dr. GANSKE of Iowa and Congressman MARKEY, like Senator KYL and I, have been working on a bipartisan basis, with the idea that these gag clauses have no place in 21st century American health care.

Mr. President, 21st century American health care ought to be built around the idea that when patients and families sit down with their physician, their physician would give them all the facts, all the information they need, to make these choices.

I want to thank Senator KYL. He knows when I offered this the first time we got a majority of votes in the U.S. Senate, but the point is to get something that is going to bring the entire Senate together, to bring all the Members together around a proposition of full consumer disclosure and consumer empowerment. I think we can do that.

We are putting the States in the lead. This is not an example of Federal micromanagement or Federal Government run wild. We are going to make sure that plans and practitioners, who, for religious or moral reasons, have concerns about discussing abortion, and others, would be protected. I think we do it in a way that is sensitive to legitimate concerns of many in the field for managed care plans. For example, we have important provisions on utilization review. Those managed care plans ask for those. That is part of our compromise.

Let me at this time yield, because I know there are a number of Senators who have been working in good faith and want to participate in this. Therefore, I yield back to Senator KYL and our other colleagues who have been putting some long hours on this. I am looking forward to staying with this until we get these protections for consumers and doctors, and do it in a fair way.

Mr. KYL. Mr. President, before the distinguished acting majority leader speaks to this, I thank Senator WYDEN for his bipartisan cooperation and make the point with all of the things we have to do here at the end of the session to finish the Nation's business, the assistant majority leader, the Senator from Oklahoma, is right in the middle of all of that, yet he has taken the time to personally be involved to improve this legislation.

If we are able to craft an agreement here, it will be in no small part due to the ideas that he brought into the debate to ensure, for example, that the State control was preeminent and that some of the other protections that we have in here are here.

Again, I want to thank him, as well as Senator COATS, for all of their contributions to this effort, too. It has gotten us much closer to the goal line than we otherwise would have been.

Mr. NICKLES. Mr. President, to the Senator from Arizona and the Senator from Oregon, flattery will get you everywhere, and may well end up getting an amendment.

Let me state, Mr. President, my thoughts. Originally, I will tell my friends and colleagues that I thought this was not the right way or the right time to legislate such an important matter. I am very dubious at the outset when I see legislative actions taking play the last day or two of the session, when measures have not had time to have hearings and have the benefit of congressional thought, hearings, markup, input from people on all sides.

This is important legislation. I will tell my colleague from Oregon who originally introduced this and had the assistance of the Senator from Arizona, the thrust of it I would concur. I also want to compliment the Senators from Oregon and Arizona for their willingness to be flexible, to understand that some of us did have serious concerns, concerns about making sure we protect the rights of States. They have shown a willingness to do that. Some States have acted. We want to compliment those States. We do not want to preempt their actions.

Also, dealing with religious institutions, I think, we still have a little way to go there. I know we will confer more tonight, and maybe tomorrow we can bring that to a conclusion. I, for one, want to make sure we would not be mandating to, for example, a religious institution, a Catholic hospital, or something that might have a clause that physicians that would work within this institution would not provide assistance to suicide, for example. I do not want to pass legislation in the wee hours that might outlaw or ban that particular clause or section of their contract.

I want to be careful. I know we are probably on about the ninth draft. I think the legislation has been improved significantly.

Again, I thank my colleagues who have worked so hard, including Senator COATS, as well as Senator WYDEN and Senator KYL, for their input on this legislation, and just state to my colleagues that we will continue working in good faith, and if we are able to resolve some of the few remaining differences, it may well be that we can have some legislation that would be acceptable, and maybe as an amendment to the continuing resolution or as independent legislation. So I compliment my colleagues for their willingness and their patience to work with some of us, and we will continue working.

I see an effort by many to legislate a whole agenda in the last two days of Congress. I urge people to be maybe a little more patient and wait for next year. The continuing resolution is growing, and that, to me, is not really the best way to legislate. So I urge our colleagues to realize that they don't have to do everything on this one bill. I also urge my colleagues to speak out on the public lands bill that Senator MURKOWSKI has been working so hard on. There is no reason for us not to be able to pass this package, which I believe will probably have an overwhelming vote of support by both Houses of Congress.

I think the administration is, unfortunately, moving the goal posts. We removed the major veto threats in that legislation in the last 24 to 48 hours. Yet, now they are finding more objections. I even say that maybe that is not in good faith, and that bothers me. There has been a lot of work by Members on both sides of the aisle. That bill was a bipartisan bill, and it should pass. I know the Senator from Minnesota reluctantly dropped an amendment that was very important to him. The Senator from Alaska dropped an amendment that was very important to him, and others were able to make concessions so we could pass an omnibus bill that is important to most of the Members in this body. It would be unfortunate indeed if we didn't pass this bill before we adjourn this Congress.

Finally, I want to say something on the immigration bill. The administration sent signals that they would sign that if we dropped the Gallegly amendment. We did drop the Gallegly amendment. Now there have been additional requests for additional modifications. I find that, too, moving the goal posts. I hope we will take up the immigration bill and pass it, as amended, without the Gallegly amendment. I think we will have an overwhelming vote in both Houses—well, the House already passed it by an overwhelming vote. I think in the Senate we will, as well. I urge colleagues to be patient and not try to pass everything on their legislative agenda in the next two days.

Let us work together and finish the unfinished appropriations bills, the continuing resolution, do it responsibly. Again, I thank my colleague from Oregon and my colleague from Arizona for their willingness to be at least flexible enough for some of us who had concerns about their amendments. Perhaps we can get that resolved.

I yield the floor.

Mr. WYDEN. Mr. President, I ask unanimous consent to address the Senate for 5 additional minutes.

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

Mr. WYDEN. I want to tell the Senator from Oklahoma that we very much appreciate his involvement in this. I only asked for 5 additional minutes because I want to go back to negotiating with him and his staff on it. As you know, Senator KENNEDY has done yeoman work on this and has been very involved in this as well. I think we are going to have good input and involvement on both sides of the aisle if we try to finish it up.

I think it is important that the Senate and the country understand that what we are talking about is ensuring that straightforward, honest conversation could take place between doctors, nurses, chiropractors, therapists, and their patients. That is all we are talking about here—information, and those honest, straightforward discussions. Right now, because of these gag clauses, that kind of communication so often can't take place. That is not right. That is what we are going to try to change.

Mr. President, I thank the Senate for the additional time. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 26, the debt stood at $5,198,325,061,997.28.

One year ago, September 26, 1995, the Federal debt stood at $4,953,251,000,000.

Five years ago, September 26, 1991, the Federal debt stood at $3,638,501,000,000.

Ten years ago, September 26, 1986, the Federal debt stood at $2,109,293,000,000. This reflects an increase of more than $3 trillion ($3,089,032,061,997.28) during the 10 years from 1986 to 1996.

TRIBUTE TO HOWARD GREENE

Mr. BIDEN. Mr. President, last week the Senate took a few moments to pass a resolution honoring the service of Sergeant-at-Arms Howard Greene, who is leaving after a 28 year career with this body. I was away from the Senate floor during the discussion of that resolution, but I did not want this Congress to adjourn without having had the opportunity to share my appreciation for Howard Greene's service to the Senate, and for his personal friendship during my tenure here.

Mr. President, much of the important work which we do here in the Senate could not be accomplished without the dedication of the professional staff members who serve the Senate, and Howard Greene has been the consummate professional. His love for the Senate; his keen understanding of its workings and its constitutional role; his discretion and his tact, have gone hand-in-hand with Howard Greene's fundamental decency and sense of public service to make him one of the Senate's greatest assets for many, many years. I doubt that there is a single Member of this body who has not benefited from Howard's counsel, his industry, his knowledge of the Senate, or his friendship. I know that I have gained a great deal from each.

I am especially proud that Howard is a fellow Delawarean, and have always believed that his sense of public service embodies the bipartisan tradition that is the hallmark of our State. As Sergeant-at-Arms, or Secretary to the majority, or in any of the roles he has undertaken during his long career here, Howard has been a source of wisdom and assistance, counsel and comfort to all Senators, Republican and Democrat alike. He has been a fundamental believer in the idea that once the election is over, we are all public servants, and he has worked tirelessly to enable us to fulfill the trust that the people of our States have placed in us.

Mr. President, the halls of Congress are filled with idealistic young people who have come to Washington hoping for a career in public service. They are the lifeblood of this institution, and are the democratic system's hope for the future. For any of those young people searching for a model of integrity, commitment, and public spiritedness upon which to base their career, I would suggest that they look to the long and distinguished career of Howard Greene.

We will miss him a great deal. And I will always be proud to call him my friend.

RETIRING SENATORS

Mr. FORD. Mr. President, these last few days mark the last that we will have the pleasure of working with some of the most talented and dedicated Senators to have served in the U.S. Senate. That's because 13 of our finest Members will be retiring this year.

Recently, former Senator Warren Rudman wrote that "As a Senator I had enjoyed sitting down with colleagues like George Mitchell, SAM NUNN, BILL BRADLEY, JOE BIDEN, and TED KENNEDY and saying, 'We have a problem here—let's find a way to solve it.' They were Democrats, to the left of me politically, but just because we saw things differently I didn't question their morality or their patriotism. I didn't come to Washington to cram things down people's throats or to have people cram anything down my throat. I thought the essence of good government was reconciling divergent views with compromises that served the country's interests."

All of the Senators retiring at the end of this Congress have set their moral compasses in the direction of compromises to best serve the country's interests. In doing so, they have served their constituents, the U.S. Senate and the Nation well.

They understood that the arbitrary labels many are so insistent to place on each other, in the end, fall short and are inadequate to describe an individual's commitment to country. That in fact, to weigh a life, a community's future or a country's needs, a different type of scale is required.

In a pluralistic society such as ours, there are many ways to confront a problem and arrive at a solution. These fine Senators recognized that their job was to reach a principled position amidst all of these often conflicting choices. Henry Kissinger put it another way saying, "The public life of every political figure is a continual struggle to rescue an element of choice from the pressure of circumstance."

They saw that the preoccupation with these labels is what grips us in gridlock. And that paralysis can cripple a nation's ability to solve its problems and move forward. With their fine guidance we have been able to move beyond gridlock on issues of great importance to the everyday lives of all Americans from health care reforms to important budget and spending questions, energy, immigration, the elderly, and judicial matters.

When judging the choices they've made, I believe history will look back on their service with great respect and admiration. Over and over again, when confronted with conflict or when called upon for leadership, they insisted that their decisions answer the larger questions: Will it stand the test of time for our country? Will our country gain strength from this decision? Time and again, their guidance has resulted in policies that have come to define our country and the common vision we hold as a nation.

In closing, Mr. President, I want to extend my personal thanks to Senators SAM NUNN, NANCY KASSEBAUM, HOWELL HEFLIN, DAVID PRYOR, CLAIBORNE PELL, JIM EXON, HANK BROWN, ALAN SIMPSON, PAUL SIMON, BILL BRADLEY, MARK HATFIELD, BENNETT JOHNSTON, and BILL COHEN for a job well done and my wishes for continued success in the future.

SECTION 405 OF THE HIGHER EDUCATION ACT OF 1965

Mr. MACK. Mr. President, I rise today to address a situation resulting from the Department of Education's interpretation of section 435 of the Higher Education Act of 1965 [HEA] which

has adversely impacted many schools in Florida and across the country. In 1990, Congress amended the act to prohibit institutions from continuing their participation in the Federal Family Education Loan [FFEL] Program if their cohort default rate is equal to or above the threshold percentage for the 3 consecutive years "for which data is available." Along similar lines, this year Congress passed additional legislation which required that any school terminated from the FFEL program will no longer be eligible to receive Pell Grants for its students.

However, the Department of Education has taken the position that this law will be enforced using default rate data for years 1991, 1992, and 1993. Schools have already received their prepublished 1994 rates, many which are below the current threshold requirement, and some are even half of what they were in years prior. Despite this achievement, the Department has terminated or is currently terminating schools based on their 1991, 1992, and 1993 rate—not on their 1994 rate—because the Department does not consider the 1994 rate to be "available" until it is published. Based upon their technicality, the Department is essentially punishing schools which have implemented costly default management programs and achieved the desired result of the law—reducing their cohort default rate.

Mr. President, the intent of this law was for schools to educate their students about the importance of repaying their loans, and established a 3-year period within which a school must take proper measures to reduce its cohort default rate. It is perfectly acceptable for Congress to enact legislation to protect taxpayers from the costs associated with high default rates, and current law does so by requiring those involved in the Federal student loan process to educate students about the importance of repayment. However, I do not believe that Congress intended for schools which have reduced their default rate to be terminated from these programs.

Given this late hour, it is unlikely that legislation addressing this situation will be enacted prior to the close of the 104th Congress. Therefore, I ask the Department to do everything in its power to use the most recent data when evaluating the eligibility status of these institutions. I thank the Chair and I yield the floor.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 172

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 Labor and Human Resources.

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1995, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12 (1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 173

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 Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Seventeenth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1995.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

REPORT OF PROPOSED LEGISLATION ENTITLED "THE FAMILY-FRIENDLY WORKPLACE ACT OF 1996"—MESSAGE FROM THE PRESIDENT—PM 174

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 Labor and Human Resources:

To the Congress of the United States:

I am pleased to transmit today for consideration and passage the "Family-Friendly Workplace Act of 1996." Also transmitted is a section-by-section analysis. This legislative proposal is vital to American workers, offering them a meaningful and flexible opportunity to balance successfully their work and family responsibilities.

The legislation would offer workers more choice and flexibility in finding ways to earn the wages they need to support their families while also spending valuable time with their families. In particular, the legislation would allow eligible employees who work overtime to receive compensatory time off—with a limit of up to 80 hours per year—in lieu of monetary compensation. In addition, the legislation contains explicit protections against coercion by employers and abuses by unstable or unscrupulous businesses.

The legislation also would amend the Family and Medical Leave Act of 1993. This statute currently allows eligible workers at businesses with 50 or more employees to take up to 12 weeks of unpaid, job-protected leave to care for a newborn child, attend to their own serious health needs, or care for a seriously ill parent, child, or spouse. Although enactment of this statute was a major step forward in helping families balance work and family obligations, the law does not address many situations that working families typically confront. The enclosed legislation would cover more of these situations, thereby enhancing workers' ability to balance their need to care for their children and elderly relatives without sacrificing their employment obligations. Under the expanded law, workers could take up to 24 hours of unpaid leave each year to fulfill additional, specified family obligations, which would include participating in school activities that relate directly to the academic advancement of their children, accompanying children or elderly relatives to routine medical appointments, and attending to other health or care needs of elderly relatives.

I urge the Congress to give this legislation favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

MESSAGES FROM THE HOUSE

At 9:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 221. Concurrent resolution correcting the enrollment of H.R. 3159.

The message also announced that the House agrees to the amendment of the Senate bill (H.R. 3159) to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes.

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

H.R. 3535. An act to redesignate a Federal building in Suitland, Maryland, as the "W. Edwards Deming Federal Building."

H.R. 4138. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 1577. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001.

S. 2085. An act to authorize the Capital Guide Service to accept voluntary services.

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

S. Con. Res. 34. Concurrent resolution to authorize the printing of "Vice Presidents of the United States, 1789–1993."

S. Con. Res. 67. Concurrent resolution to authorize printing of the report of the Commission on Protecting and Reducing Government Secrecy.

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

H.R. 4011. An act to amend title 5, United States Code, to provide that if a Member of Congress is convicted of a delony, such member shall not be eligible for retirement benefits based on that individual's service as a member, and for other purposes.

H.J. Res. 195. Joint resolution recognizing the end of slavery in the United States, and a true day of independence for African-Americans.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3546) entitled "An Act to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina."

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3378) to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 145. Concurrent resolution concerning the removal of Russian Armed Forces from Moldava.

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress regarding the importance of United States membership and participation in the regional South Pacific organizations.

H. Con. Res. 216. Concurrent resolution providing for relocation of the Portrait Monument.

At 3:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4194. An act to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The message further announced that the House has agreed to the resolution (H. Res. 545) that the bill of the Senate (S. 1311) to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports, and for other purposes; to the Committee on Commerce, Science, and Transportation. in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills.

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

H.R. 2594. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under the Act, and for other purposes.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes.

H.R. 3068. An act to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 6:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1031. An act for the relief of Oscar Salas-Velazquez.

H.R. 1087. An act for the relief of Nguyen Quy An.

H.R. 4000. An act to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before amendments made by the National Defense Authorization Act for Fiscal Year 1997.

H.R. 4041. An act to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school.

H.R. 4139. An act to reauthorize and amend the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act.

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

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and Hazardous liquids, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1972. An act to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker, has signed the following enrolled bills:

S. 1675. An act to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

S. 1970. An act to amend the national Museum of the American Indian Act to make improvements in the Act, and for other purposes.

S. 2085. An act to authorize the Capital Guide Service to accept voluntary services.

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrent of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 3391. An act to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act; to the Committee on Environment and Public Works.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–4181. A communication from Assistant Attorney General, transmitting, a draft of proposed legislation to amend the Violent Crime Control and Law Enforcement Act of 1994; to the Committee on the Judiciary.

EC–4182. A communication from Assistant Attorney General, transmitting, a draft of proposed legislation entitled "The Compact on the Exchange of Criminal-History Records for Noncriminal-Justice Purposes"; to the Committee on the Judiciary.

EC–4183. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, regulations under the Export Apple and Pear Act (FV-96-33-1), received on September 26, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4184. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, regulations pertaining to tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (FV-93-930-3), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4185. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding Irish potatoes grown in Colorado (FV-96-948-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4186. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding apricots and cheries (FV-96-922-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4187. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding domestic dates grown in Georgia (FV-96-955-1), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4188. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding Vidalia onions grown in Georgia (FV-96-955-1), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4189. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding almonds grown in California (FV-96-981-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4190. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding nectarines and fresh peaches grown in California (FV-96-916-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4191. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding oranges and grapefruit (FV-96-906-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4192. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding kiwi fruit (FV-96-920-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4193. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, twelve rules including one entitled "HOME Investment Partnerships Program Final Rule" (FR-3962, 3814, 4080, 4108, 3472, 3929, 4110, 3857, 3813, 2958, 4114) received on September 26, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–4194. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, a rule entitled "Terms and Conditions For Advances" (received on September 23, 1996); to the Committee on Banking, Housing, and Urban Affairs.

EC–4195. A communication from the Chairman of the Securities and Exchange Commission and the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report regarding markets for small business; to the Committee on Banking, Housing, and Urban Affairs.

EC–4196. A communication from the Board of Governors of the Fedral Reserve System, the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, and the Acting Director of the Office of Thrift Supervision, transmitting, pursuant to law, a report regarding streamlining of regulatory requirements; to the Committee on Banking, Housing, and Urban Affairs.

EC–4198. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule regarding standard instrument approach procedures (RIN 2120-AA65) received on September 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–4199. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule regarding hazardous materials regulation (RIN 2137-AC93) received on September 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–4200. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a rule regarding international traffic in arms regulations, recieved on September 23, 1996; to the Committee on Foreign Relations.

EC–4201. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

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. D'AMATO (for himself, Mr. ABRAHAM, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. FRAHM, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WYDEN):

S. 2136. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG:

S. 2137. A bill to amend title 18, United States Code, to make misuse of information received from the National Crime Information Center a criminal offense; to the Committee on the Judiciary.

S. 2138. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

By Mrs. MURRAY:

S. 2139. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, Mr. EXON, and Mr. D'AMATO):

S. 2140. A bill to limit the use of the exclusionary rule in school disciplinary proceedings; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 2141. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 2142. A bill to provide for the inclusion of certain counties in North Carolina in certain metropolitan statistical areas, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. INHOFE, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mrs. HUTCHISON, Mr. ROBB, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. MCCONNELL, Mr. FORD, and Mr. NICKLES):

S. 2143. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO (for himself, Mr. KERRY, Mr. FAIRCLOTH, Mr. PRESSLER, and Mr. DODD):

S. 2144. A bill to enhance the supervision by Federal and State banking agencies of foreign banks operating in the United States, to limit participation in insured financial institutions by persons convicted of certain crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN:

S. 2145. A bill to amend the Family and Medical Leave Act of 1993 to allow employees to take parental involvement leave to participate in or attend the educational activities of their children; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 2146. A bill to direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL (for himself and Mr. HATFIELD):

S. 2147. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself and Mrs. MURRAY):

S. 2148. A bill to amend the Internal Revenue Code of 1986 to expand the child and dependent care credit, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2149. A bill to establish a program to provide health insurance for workers changing jobs; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. HATCH, Mr. BENNETT, Mr. CAMPBELL, Mr. BURNS, Mr. NICKLES, and Mr. STEVENS):

S. 2150. A bill to prohibit extension or establishment of any national monument on public land without full compliance with the National Environmental Policy Act and the Endangered Species Act, and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMPSON (by request):

S. 2151. A bill to provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices that are reducing employment levels, and for other purposes; to the Committee on Veterans' Affairs.

S. 2152. A bill to amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SHELBY (for himself, Mr. BOND, Mr. GRAMS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. THURMOND, Mr. HELMS, and Mr. BENNETT):

S. Con. Res. 72. A concurrent resolution expressing the sense of the Congress that the President should categorically disavow any intention of issuing a pardon to James or Susan McDougal or to Jim Guy Tucker; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. Con. Res. 73. A concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself, Mr. ABRAHAM, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. FRAHM, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, AND Mr. WYDEN):

S. 2136. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking, Housing, and Urban Affairs.

THE JACKIE ROBINSON COMMEMORATIVE COIN ACT

• Mr. D'AMATO. Mr. President, on behalf of myself and 64 colleagues, I rise today to introduce the Jackie Robinson Commemorative Coin Act. It is appropriate and important that the Congress honor Jackie Robinson, a true American hero who rose above prejudice and segregation to become a pillar of our national pastime—and a leader in the fight for racial equality. The bill would authorize the U.S. Mint to commemorate the 50th anniversary of Jackie Robinson's historic and heroic act of breaking baseball's color barrier.

Mr. President, the life story of this great American citizen is so uplifting. It is a story of a pioneer, a man of many many, "firsts."

As a young boy growing up in New York, I was consumed by baseball like so many others. I have a personal connection to Jackie Robinson and the legendary Brooklyn Dodgers. Those were certainly the banner days for baseball, in New York and elsewhere. Jackie Robinson, one of the all stars with the legendary Brooklyn Dodgers, stood as tall as one of New York's skyscrapers themselves.

Jackie Robinson's courage, quiet determination and competitive spirit were evident throughout his life. At UCLA, Jackie Robinson was the first four-letter man excelling at football, basketball, track, and baseball.

Although he was far along the path to a promising future in sports, Jackie Robinson had to leave college after 3 years to support his mother. He realized that coming to his mother's aid in a time of need was a more compelling priority. Jackie Robinson was a giving, unselfish man, and devoted son.

In 1942, Jackie Robinson faced another noble calling. He joined the Army to serve his country during World War II. In his 3 years of service, Jackie rose to the rank of 2d lieutenant and attended Officers Candidate School. The atmosphere of segregation in the Army inspired him to forge ahead and begin a quiet but lifelong determined effort to fight discrimination.

After the Army, Jackie Robinson returned to his true dream—playing baseball. Despite the color barrier, Jackie Robinson persisted. Jackie Robinson experienced the ugly face of bigotry firsthand playing for the Negro Baseball League in 1945. It was commonplace to have hotel and restaurant doors shut in his face. He withstood vicious taunts and threats from fans. Even some of his own teammates would not acknowledge him.

But those affronts and experiences did not diminish Jackie Robinson's spirit. Eventually, his excellence and determination prevailed. In 1946 he joined the Montreal Royals minor-league team in the Dodgers organization. That same year, he was recognized as the MVP of the league, the first of many baseball honors.

In 1947, Jackie Robinson became prominent in the history of our Nation and its great pastime. He penetrated the color barrier in baseball when he was brought up to play for the Brooklyn Dodgers. This breakthrough reverberated throughout all professional sports and is acknowledged today as a watershed event in the continuing struggle for racial equality.

Mr. President, in late 1947, Jackie Robinson was named Rookie of the Year, actually the first so-named in the major leagues. Then in 1949 he was named MVP of the National League. Throughout his 11-year career with the Dodgers, Jackie Robinson won batting

titles, set fielding records, and was feared as a base stealer.

Another first occurred in 1962 when Jackie Robinson became the first African-American to be inducted into the Baseball Hall of Fame located in Cooperstown, NY.

Mr. President, for many of us, especially, those of my generation, Jackie Robinson is synonymous with baseball. He dazzled and electrified crowds with his energetic performances on the field. Time and time again, he brought fans to their feet. At the same time, he united a whole city with his personal enthusiasm, and baseball excellence. But, Jackie Robinson, the man transformed his greatness on the baseball diamond to greatness in his community, hitting homeruns for his fellow man. In many ways, Jackie Robinson united our Nation through all of his achievements.

After retiring from professional baseball, he entered a life of service to his community. He donned the many hats of businessman, community leader, and civil rights activist. His dedication to bringing down social barriers thrived. He provided affordable housing to low-income families through the Jackie Robinson Development Corp. He helped spur economic development in Harlem by founding the Freedom National Bank, now a prosperous financial institution. As vice president for personnel at a well-known fast-food chain, he championed the cause of increasing benefits for workers and their families.

Mr. President, Jackie Robinson remains an inspiration to this Nation and a commemorative coin will serve as a fitting tribute to this great man. In the spirit of honoring our greatest American heroes, I am introducing this bill which would authorize silver dollar commemorative coins to be minted in 1997 celebrating the 50th anniversary of breaking the color barrier in American baseball by Jackie Robinson. Once the Mint has recovered its costs, profits would go to the Jackie Robinson Foundation, a public, not-for-profit organization.

The focus of the Jackie Robinson Foundation is to make educational and leadership development opportunities available to minority youths of limited financial resources. Full 4-year college scholarships are awarded to those youths who meet the selection criteria of the foundation. These criteria are based on academic achievement, community service, leadership potential, and financial need.

The successes of the foundation's primary goal are undeniable. Since its inception, over 400 young adults from all parts of this Nation have benefited from participation with most students obtaining degrees in engineering, science and related fields. And furthermore, the graduation rate of the foundation participants is 92 percent, one of the best in our country.

The Jackie Robinson Foundation was established by Mrs. Rachel Robinson a year following Jackie Robinson's untimely death. She has worked tirelessly to keep his inspiration alive through her gentle strength and relentless determination. Jackie Robinson once said of his wife of 26 years—"strong, loving, gentle, and brave, never afraid to either criticize or comfort." Rachel Robinson is truly an incredible woman. I can attest to that.

Mr. President, I want to thank my colleague from New York, FLOYD FLAKE for his leadership and dedication in this matter. I would also like to extend a deep appreciation to all cosponsors for their incredible support in realizing this effort. I owe a special debt of gratitude to the Honorable Robert Rubin, Secretary of the Treasury and Philip Diehl, Director of the U.S. Mint for their support.

Mr. President, I ask for 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. 2136

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 "Jackie Robinson Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—In commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson and the legacy that Jackie Robinson left to society, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of Jackie Robinson and his contributions to major league baseball and to society.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "1997"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Jackie Robinson Foundation (hereafter in this Act referred to as the "Foundation") and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on April 15, 1997, and ending on April 15, 1998.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 10(a), all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Foundation for the purposes of—

(1) enhancing the programs of the Foundation in the fields of education and youth leadership skills development; and

(2) increasing the availability of scholarships for economically disadvantaged youths.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 10. CONDITIONS ON PAYMENT OF SURCHARGES.

(a) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act shall be paid to the Foundation unless—

(1) all numismatic operation and program costs allocable to the program under which such coins are produced and sold have been recovered; and

(2) the Foundation submits an audited financial statement which demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the Foundation has raised funds from private sources for such projects and purposes in an amount which is equal to or greater than the maximum amount the Foundation may receive from the proceeds of such surcharge.

(b) ANNUAL AUDITS.—

(1) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—The Foundation shall provide, as a condition for receiving any amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the Foundation, of all such payments to the Foundation beginning in the first fiscal year of the Foundation in which any such amount is received and continuing until all such amounts received by the Foundation with respect to such surcharges are fully expended or placed in trust.

(2) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of the Foundation pursuant to paragraph (1) shall report—

(A) the amount of payments received by the Foundation during the fiscal year of the Foundation for which the audit is conducted which are derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act;

(B) the amount expended by the Foundation from the proceeds of such surcharges during the fiscal year of the Foundation for which the audit is conducted; and

(C) whether all expenditures by the Foundation from the proceeds of such surcharges during the fiscal year of the Foundation for which the audit is conducted were for authorized purposes.

(3) RESPONSIBILITY OF FOUNDATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—The Foundation shall take appropriate steps, as a condition for receiving any payment of any amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the Foundation in each fiscal year of the Foundation can be accounted for separately from all other revenues and expenditures of the Foundation.

(4) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of the Foundation for which an audit is required under paragraph (1), the Foundation shall—

(A) submit a copy of the report to the Secretary of the Treasury; and

(B) make a copy of the report available to the public.

(5) USE OF SURCHARGES FOR AUDITS.—The Foundation may use any amount received from payments derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act to pay the cost of an audit required under paragraph (1).

(6) WAIVER OF SUBSECTION.—The Secretary of the Treasury may waive the application of any paragraph of this subsection to the Foundation for any fiscal year after taking into account the amount of surcharges which such Foundation received or expended during such year.

(7) AVAILABILITY OF BOOKS AND RECORDS.—The Foundation shall provide, as a condition for receiving any payment derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and workpapers belonging to or used by the Foundation, or by any independent public accountant who audited the Foundation in accordance with paragraph (1), which may relate to the receipt or expenditure of any such amount by the Foundation.

(c) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment to the Foundation from amounts derived from the proceeds of surcharges imposed on the sale of coins issued under this Act may be used, directly or indirectly, by the Foundation to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to the coins minted and issued under this Act.•

Mr. MURKOWSKI. I wonder if my friend from New York will make sure I am added as a cosponsor.

Mr. D'AMATO. I am delighted. I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor.

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

By Mr. GREGG:

S. 2137. A bill to amend title 18, United States Code, to make misuse of information received from the National Crime Information Center a criminal offense; to the Committee on the Judiciary.

THE NATIONAL CRIME INFORMATION CENTER DATABASE PROTECTION ACT OF 1996

• Mr. GREGG. Mr. President, I introduce the National Crime Information Center [NCIC] Database Protection Act of 1996. This legislation will make it a Federal offense to purposely misuse the NCIC data base.

The NCIC was originally established in order to centralize information about outstanding warrants and criminal history of citizens of the United States. This data-base allows law enforcement agencies across the United States to have access to any information regarding suspected criminals within their jurisdictions. It is an indisputable fact that the NCIC has helped apprehend thousands of criminals over the years, including Timothy McVeigh, who allegedly bombed the Oklahoma City Federal building. By providing instantaneous and accurate information about individuals with criminal pasts, NCIC has helped reduce recidivism and identify those people who are dangerous to society.

It also is an indisputable fact that those individuals whose names are included on the data-base have a right to privacy. They have a right to feel secure that their information will be available only to law enforcement and that the information will be accessed only when it is necessary for law enforcement to perform their prescribed duties.

Over the past several years, there have been instances when the NCIC has been used by individuals other than law enforcement officers to check the backgrounds of individuals who are not having a routine background check or under suspicion of a crime. In some cases, law enforcement officers themselves have used the data-base improperly. For instance, NCIC was used by a drug gang in Pennsylvania to identify narcotics agents. The gang got the NCIC information through a corrupt police officer.

NCIC was used by an Arizona law enforcement official to locate his ex-girlfriend and kill her. The data-base has also been used by private detectives doing background investigations on political candidates.

Unfortunately, these chilling tales are becoming far too common and there is no ready mechanism under which the perpetrators of these crimes can be prosecuted for misusing the NCIC data-base.

There is an obvious need for a law that states in no uncertain terms that the NCIC should not be readily available to any non-law enforcement officers or for any unofficial purposes. We need to send a message that those who are caught violating the privacy of others through NCIC will be prosecuted to the full extent of the law.

I urge my fellow Senators to support this legislation and join in my outrage at the ease with which NCIC information is available to criminals. Our Nation's private citizens are not safe from those who would exploit their personal information.

I ask unanimous consent that the provisions in the bill be included in the RECORD.

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

S. 2137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MISUSE OF INFORMATION RECEIVED FROM THE NATIONAL CRIME INFORMATION CENTER.

(a) IN GENERAL.—Chapter 101 of title 18, United States Code, is amended by adding at the end the following:

"§ 2077. Misuse of information received from the National Crime Information Center.

"Whoever obtains information from the National Crime Information Center without authorization under law or uses information lawfully received for purposes not authorized by law shall be fined under this title or imprisoned not more than 3 years, or both.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 101 of title 18, United States Code, is amended by adding at the end the following:

"2077. Misuse of information received from the National Crime Information Center.".●

By Mr. GREGG:

S. 2138. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION AMENDMENTS OF 1996

● Mr. GREGG. Mr. President, I introduce the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Amendments of 1996.

The current Jacob Wetterling Act is an effective and responsible way to keep track of sexually violent predators, especially those who prey on our children. This act requires States to implement a program through which these types of offenders, once on parole, must register their places of residence with State and local law enforcement agencies. I have always supported the premise behind this provision in the 1994 crime bill, as I believe it provides law enforcement with the information necessary to locate prior offenders, should they strike again.

I was particularly pleased to support this provision because New Hampshire has had an exemplary sex offender registration program for several years. In fact, the Department of Justice has complimented the Granite State's program as one of the best in the Nation.

Despite my support of the Jacob Wetterling Act, I call on the Senate to amend this legislation because it has come to my attention that this act has established parameters for compliance that are too restrictive. In fact, according to the Department of Justice, while most States have established successful sex offender registration programs, not one is in compliance with the narrowly drawn provisions outlined in the bill.

This fact is particularly distressing considering that the penalty for noncompliance is the loss of 10 percent of that State's Edward Byrne Memorial Grant funds. States that already run successful registration programs do not deserve such a penalty.

The amendments that I propose will allow States to be in compliance with Jacob Wetterling while retaining their own unique system of registering sexually violent offenders.

First, this legislation would allow States to devise their own way of registering paroled offenders. Current law requires States to conduct a mail registration system, which is costly. In New Hampshire and other States, the current system requires offenders to register in person at their local police departments. My amendments would allow these States to retain their current, successful systems.

Second, my bill would amend the current provision that requires States to create a board of experts, whose purpose is to determine whether an offender should be labeled as sexually violent and required to register. My amendment would allow States to make this determination through an assessment of the individual for purposes of a sentencing enhancement determination. My own State of New Hampshire is an example of the latter situation in that all people required to register have been designated as sexually violent by a psychiatrist at the time of sentencing. In New Hampshire, no State board needs to be created.

Finally, my bill would allow sex offenders to first register with local law enforcement agencies, who then pass the information to the State, the FBI, and other appropriate agencies.

These amendments simply recognize that it is not the role of the Federal Government to devise each State's system for dealing with its paroled offenders. Each State's methods and needs are different. The Federal Government should not mandate that each of them conduct identical programs.

I ask unanimous consent that the provisions in the bill be included in the RECORD.

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

S. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF STANDARDS FOR STATE SEX OFFENDER REGISTRATION PROGRAMS.

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended—

(1) in subsection (a)(1), by striking "with a designated State law enforcement agency" in each of subparagraph (A) and subparagraph (B);

(2) in subsection (a)(2), by inserting before the period the following: ", or pursuant to an assessment for purposes of a sentencing enhancement determination";

(3) in subsection (a)(3)(C), by inserting before the period the following: ", or means a person who has been convicted of a sexually violent offense and has received an enhanced sentence based on a determination that the person is a serious danger to others due to a gravely abnormal mental condition";

(4) in subsection (b)(1)(A)—

(A) in clause (ii), by striking "give" and all that follows through "days" and inserting "report the change of address as provided by State law"; and

(B) in clause (iii), by striking "shall register" and all that follows through "requirement" and inserting "shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence";

(5) by amending paragraph (2) of subsection (b) to read as follows:

"(2) TRANSFER OF INFORMATION TO STATE AND THE FEDERAL BUREAU OF INVESTIGATION.—The officer, or in the case of a person placed on probation, the court, shall forward the registration information to the agency responsible for registration under State law. State procedures shall ensure that the registration information is available to a law enforcement agency having jurisdiction where the person expects to reside, that the information is entered into the appropriate State records or data system, and that conviction data and fingerprints for registered persons are transmitted to the Federal Bureau of Investigation.";

(6) in subsection (b)(3)(A)—

(A) in the matter preceding clause (i), by inserting after "(a)(1)," the following: "State procedures shall provide for verification of address at least annually. Such verification may be effected by providing that";

(B) in clause (i), by striking "The designated State law enforcement" and inserting "A designated";

(C) in clause (ii), by striking "State law enforcement";

(D) in clause (iii), by striking "to the designated State law enforcement agency"; and

(E) in clause (iv), by striking "State law enforcement";

(7) in subsection (b)(4), by striking "section reported" and all that follows through "requirement" and inserting the following: "section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is available to a law enforcement agency having jurisdiction where the person will reside and that the information is entered into the appropriate State records or data system.";

(8) in subsection (b)(5), by striking "shall register" and all that follows through "requirement" and inserting "who moves to another State shall report the change of address to the responsible agency in the State the person in leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided to an agency responsible for registration in the new State, if that State requires registration"; and

(9) in subsection (d)(3), by striking "the designated" and all that follows through "State agency" and inserting "the State or any agency authorized by the State".●

By Mrs. MURRAY:

S. 2139. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S AIRLINE SAFETY ACT OF 1996

● Mrs. MURRAY. Mr. President I introduce legislation that would protect our Nation's small children as they travel on aircraft. We currently have Federal regulations that require the safety of passengers on commercial flights. However, neither flight attendants nor an infant's parents can protect unrestrained infants in the event of an airline accident or severe turbulence. A

child on a parent's lap will likely break free from the adult's arms as a plane takes emergency action or encounters extreme turbulence.

This child then faces two serious hazards. First, the child may be injured as they strike the aircraft interior. Second, the parents may not be able to find the infant after a crash. The United/Sioux City, IA crash provides one dark example. On impact, no parent was able to hold on to her/his child. One child was killed when he flew from his mother's hold. Another child was rescued from an overhead compartment by a stranger.

In July 1994 during the fatal crash of a USAir plane in Charlotte, NC, another unrestrained infant was killed when her mother could not hold onto her on impact. The available seat next to the mother survived the crash intact. The National Transportation Safety Board believes that had the baby been secured in the seat, she would have been alive today. In fact, in a FAA study on accident survivability, the agency found that of the last nine infant deaths, five could have survived had they been in child restraint devices.

Turbulence creates very serious problems for unrestrained infants. In four separate incidences during the month of June, passengers and flight attendants were injured when their flights hit sudden and violent turbulence. In one of these, a flight attendant reported that a baby seated on a passenger's lap went flying through the air during turbulence and was caught by another passenger. This measure is endorsed by the National Transportation Safety Board and the Aviation Consumer Action Project.

We must protect those unable to protect themselves. Just as we require seatbelts, motorcycle helmets, and car seats, we must mandate restraint devices that protect our youngest citizens. I urge my colleagues to support this legislation that ensures our kids remain passengers and not victims.●

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, Mr. EXON, and Mr. D'AMATO):

S. 2140. A bill to limit the use of the exclusionary rule in school disciplinary proceedings; to the Committee on the Judiciary.

THE SAFER SCHOOLS ACT OF 1996

Mr. DORGAN. I come to the floor, Mr. President, along with my colleague, Senator FEINSTEIN, from California, to introduce legislation that will help keep our kids safe from gun violence in school. It is late in the session to do this, but I am joined in this effort by the Senator from California, Mrs. FEINSTEIN, the Senator from Nebraska, Mr. EXON, and the Senator from New York, Mr. D'AMATO. I want to describe what this legislation is and why it is necessary at this point.

Yesterday, in the Washington Post, there was a tiny little paragraph at the bottom of a section called "Around the Nation." It is the smallest of paragraphs describing the fate of a man named Horace Morgan. Horace Morgan was a teacher who, as reported in yesterday's news, was killed trying to break up a fight at a school for problem students in Scottdale, GA. He was fatally shot by a teenager. He had taught English and language arts at the De Kalb County Alternative School for 10 years. This teacher died of multiple gunshot wounds. A 16-year-old student was arrested. This was not headlines. It was not the front section. It was not on the front page—a tiny little paragraph in the newspaper about a teacher being shot in school, a teacher named Horace Morgan dying of multiple gunshot wounds.

The point is that it is not so uncommon that it warrants headlines in this country when a student shoots and kills a teacher. About 2 years ago, Senator FEINSTEIN and I wrote the Gun-Free Schools Act, which is now law. The Gun-Free Schools Act says there shall be zero tolerance on the issue of guns in schools—no excuses, no tolerance. Guns do not belong in schools. Schools are places of learning. Students cannot bring guns to school to threaten other students. Bring a gun to school and you will be expelled for 1 year—no tolerance, no excuses, no ifs, ands or buts. No guns in schools. Bring a gun, you are expelled for a year. That is now the law.

A week ago yesterday, I came to the Senate floor and again spoke on the issue of guns in schools. I did this because, as I was shaving in the morning getting ready for work, I heard a news piece on NBC television that so infuriated me I wanted to address it right away. The news story was about an appellate court in New York that had ruled a student who brought a gun to school should not have been expelled for a year because the security aide who found the gun did not have reasonable suspicion to search the student.

The facts of this case made me so angry because it simply stands common sense on its head. In 1992, Juan C. was stopped by a school security aide who said he saw a bulge resembling the handle of a gun inside Juan's leather jacket. The aide grabbed for the bulge, which was indeed a loaded .45 semiautomatic handgun.

Juan was expelled for school for one year. This internal disciplinary action is consistent with the requirements of the Gun-Free Schools Act. Juan was also changed with criminal weapons violations.

The family court that heard Juan's criminal case ruled that the security guard did not have reasonable suspicion to search this student. As a result, the court refused to admit the gun as evidence of Juan's guilt, relying on the judicially created mechanism known as an exclusionary rule.

The New York appellate court took this decision to ridiculous lengths by applying the exclusionary rule to the internal school disciplinary action against this student. In essence, this court was saying that the security aide in the school was to blame for catching this young student red-handed bringing a gun to school. They said he should not have been expelled and ordered his record expunged of any wrongdoing in the matter.

This is the most ludicrous decision from a court. If this ruling is allowed to stand, teachers and school administrators who know that a student is packing a gun will be powerless to act without a "reasonable suspicion"—whatever that now is—that the gun exists. In some cases, like this one, it tells school officials to look the other way when they know a student is carrying a loaded gun.

I do not understand this thinking. What on Earth has happened to common sense? When you and I board an airplane, we voluntarily consent to security checks in order to preserve the safety and security of ourselves and other passengers. Now we have a court that says, "Oh, but you can't have that same level of security with respect to kids in school. Yes, you can remove a gun from a passenger who is going on an airplane because it is unsafe, but you cannot remove a gun from the jacket of a 15-year-old who is carrying a loaded .45 semiautomatic pistol into a school." What has happened to common sense?

I am introducing a piece of legislation today that is painfully simple. So simple, in fact, that it ought not to have to be introduced. It simply says that you cannot exclude a gun as evidence in a disciplinary action in school. This bill returns to schools the most basic and necessary of disciplinary tools—the ability to keep classrooms safe from gun violence for the students who want to learn.

Let me emphasize that this bill does not violate the constitutional rights of kids. School officials who conduct unreasonable or unlawful searches will not be exonerated by this legislation, and people who have been aggrieved will be free to pursue any judicial or statutory remedies available to them. What they are not free to do—once they have been found with a gun—is slip through a school's disciplinary process and return to school where they can continue to threaten other kids and teachers. I do not want that kid in school with my children. I do not want that kid in school with the children of the Presiding Officer or any other citizen of this country. When a kid puts a semiautomatic pistol, loaded, in his waistband or jacket and heads off to school, if my children or the children of any American citizen

are in that school, I want that kid expelled and out immediately.

If our court system does not understand that, then there is something wrong with our court system. Never again, in this country, should we have a circumstance where a court says that, even though a student is caught red-handed with a loaded gun, the security guard who finds it should pat the kid on back and say, "Sorry, I really should not have seen that. You go to class now."

No wonder people are angry in this country about a system that excuses everything. I know people will say to me, "How dare you personalize this? How dare you criticize a judge?" But who is a judge? Judges are public servants, paid for with public money. I want judges to make thoughtful, reasonable decisions.

When judges, just as when other public officials come up with decisions that defy all common sense, we have a right to be publicly critical. Certainly in this case we have a right to offer legislation to say there ought not be one school district in America that has any other than zero tolerance for guns in schools. There ought not be one judicial jurisdiction in this country that is able to say to any school board, any principal, or any teacher, that a kid bringing a gun to school ought to be sent back to a classroom because someone had no right to find the gun.

If we have a right to ensure the security of passengers who get on airplanes in this country, and we do, then we have a right to ensure the safety of teachers and children in our public schools. If we do not have that right, if we cannot take the first baby step in making sure that places of learning are safe, then we cannot take any step in improving our educational system in America.

I offer this bill in the spirit of bipartisanship. There are Republicans and Democrats who have joined me in offering it. I recall a couple years ago, at the end of a legislative session just like we are now, when Senator FEINSTEIN and I were trying very hard to save the provision that we had put in law saying we ought to adopt a zero tolerance on guns in schools. At the time, I shared a story with my colleagues. I know it is repetitious but it is important, so I am going to tell it again. I do not know about the subject of guns in schools so much from my hometown because I come from North Dakota, a town of 300, a high school class of nine; a small school. We did not have so many of the problems that so many schools have now.

But a few years ago I toured a school not very far from this Capitol building. That school had metal detectors and security guards. A month later, a student at that school bumped a student who was taking a drink at a water fountain and the student taking the drink, after he was bumped, pulled out a pistol, turned around, and shot the other student four times. The name of the young man who was shot is Jerome. He survived; critically wounded, but he survived. I visited with Jerome after that. He has since graduated.

But I was trying to understand, what is happening here? What is happening that a child who bumps another child in a lunchroom finds himself facing a loaded pistol and is shot four times? I do not even begin to understand it. But I do not need to begin to understand it to know that we ought, in every circumstance, under every condition, decide to fight to make certain that people are not bringing guns into our schools. Our schools ought to be safe havens, places of learning where our young boys and girls come, believing they are going to learn during that day and be safe while they are learning.

That is why we introduced the legislation 2 years ago. I am very surprised we are here on the floor of the Senate talking again about this issue, but we are here because of a court decision that stands logic on its head. When they do that, I will come to the floor again, and again, and again, and introduce legislation that restores some common sense on this issue.

Mr. President, let me say again that I appreciate the opportunity to work closely with the Senator from California on this issue. Mr. President, I yield the floor, and 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. 2140

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 "Safer Schools Act of 1996".

SEC 2. SAFER SCHOOLS.

(a) IN GENERAL.—Section 14601(b)(1) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(b)(1)) is amended—

(1) by striking "under this Act shall have" and inserting the following: "under this Act—

"(A) shall have";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(B) beginning not later than 2 years after the date of enactment of the Safer Schools Act of 1996, shall have in effect a State law or regulation providing that evidence that a student brought a weapon to a school under the jurisdiction of the local educational agencies in that State, that is obtained as a result of a search or seizure conducted on school premises, shall not be excluded in any school disciplinary proceeding on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States.".

(b) REPORT TO STATE.—Section 14601(d) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(d)) is amended—

(1) in paragraph (1), by striking "the State law required by" and inserting "each State law or regulation"; and

(2) in paragraph (2), by striking "subsection (b)" and inserting "subsection (b)(1)(A)".

(c) REPORT TO CONGRESS.—Section 14601(f) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(f)) is amended by inserting "of subsection (b)(1)(A)" before "of this".

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I thank the Senator from North Dakota for his leadership on this issue. I have been very proud to cosponsor the bill with him, and it has been a very important bill in California.

I will never forget going to a school in Hollywood, CA, speaking to a fourth grade class and asking that class, What is your No. 1 fear?

Do you know what it was? It was getting shot in class or on the way to school. I didn't believe it, so I asked the class: Well, how many of you have even heard gunshots? In the fourth grade of this Hollywood elementary school, every single hand went up.

Then I remember going to Reseda High School and embracing a mother whose son had been shot in a hallway for no reason at all, just shot dead by another student. That is when I came back and sort of firmed up my resolve to really try to do something about it.

In 1993—this is the year before we passed this bill, gun-free schools—the Oakland school officials confiscated 60 guns; Fresno school officials confiscated 43 guns; San Jose, 175 guns; Los Angeles, 256 guns; Long Beach, 37 guns; and San Diego, 30 guns.

These are the schools of California. Who can learn when a youngster has a .45 in their pocket? I don't think your son or daughter could learn. I know my son or daughter or granddaughter couldn't learn in a school if guns are present. So this is a good bill.

I share the frustration of Senator DORGAN. I wasn't shaving that morning, but I did read the New York Times, and what I saw in the New York Times amazed me, because what it said was that no school security guard, seeing a bulge in a youngster's pocket, could go up to that youngster and say, "What do you have in your pocket?"

If you see a bulge in somebody's pocket, you can have a reasonable belief that they are carrying a weapon, particularly in a day and age where we have 160,000 students a year going into schools with weapons. That is a reasonable belief if there is a bulge.

We know for a fact that many schools now have metal detectors, that many schools routinely search backpacks. What does this court finding do to these routine searches? I think it decimates them.

So we have submitted to you a bill which we hope will correct this. I know that gun-free schools work. In Los Angeles, when they put in a gun-free-

school bill, gun incidents went down by 65 percent. In San Diego, gun incidents in school were cut in half.

What we contend is that any school that takes Federal money should have a zero tolerance policy for guns in that school. That means you bring a gun to school, you are expelled for 1 year. No ifs, ands, or buts, you go out. The superintendent has the ability to be able to see there is some alternative placement if that is available and to provide counseling for the youngster. But the point of this is, it has to be enforced. For the New York City Family Court to strike down a gun being entered into evidence that was confiscated by a bona fide security person in the course of their duties on school grounds to me just boggles my mind.

Let me talk just for a moment about what happens if this ruling stands and if we don't address it legislatively. I think it is really a shot in the back of school districts that are attempting to eliminate gun violence in their schools. How many school security guards and teachers will now hesitate to be just a little bit more vigilant in protecting the millions of good, innocent kids who are in our schools? How many overworked and underpaid teachers, fearful for their safety, will decide that this is the last straw and simply turn away from teaching if they can't go out there and say, "I think you may have something in your backpack that is contraband. Open it up." Or, "Susie," or "Jeff, what is that bulge in your pocket? Let me see what you have in your pocket."

This raises the whole kind of commonsense aspect: Should a youngster in a school have the same privacy rights that a youngster in a home would have? I don't think so. I think a minor should be subject to search for contraband, to search for possession of a weapon, and if we let our laws in this country bend over so backward that a security guard or a teacher can't say, "Show me what you have in that pocket," or "Show me what I think you have in that backpack," or "I have reason to believe you may have something you shouldn't have in your locker; I am going to open it up and look at it," I think any effort to protect youngsters in schools will go right out the window.

So I think that what we are trying to do today—Senator DORGAN, myself, I know I talked with Senator D'AMATO about this. I know he has said, "Let's work together." I am delighted to see he is on this bill as well.

It is extraordinarily important that we get guns out of our schools, and this court decision was just a major setback, because what it said is, you can't enter the gun into evidence, you can't make it stick. I cannot fathom how any judge could do this.

I am not entirely sure that the remedy we present today is the full remedy that we need. I think it may even need beefing up in itself. But I think it is a real start in the right direction, and I think it is extraordinarily important that Senators on both sides of the aisle really state to the public their belief that guns must not be brought to school, that knives must not be brought to school, that drugs, for that matter, should not be brought to school, and that we reinforce this in every way, shape or form we can legislatively.

I am very, very pleased and proud to join with the Senator from North Dakota, once again, in hopes that this body will take prompt action in the early part of the next session. My hope also is, as this case proceeds on appeal, that common sense may reign. I cannot believe that the Framers of the Constitution of the United States of America wanted a situation whereby a youngster could be search-proof in a school for a weapon of destruction.

By Mrs. FEINSTEIN:

S. 2141. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

CHARITABLE GIVING TAX LEGISLATION

• Mrs. FEINSTEIN. Mr. President, I introduce legislation to strengthen tax incentives to encourage more charitable giving in America. The legislation would represent an important step and encourage greater private sector support of important educational, medical, and other valuable programs in local communities across the country.

Americans are among the most caring in the world, contributing generously to charities in their communities:

American families contribute, on average, nearly $650 per household, or about $130 billion, per year, to charities.

Approximately, three out of every four households give to nonprofit charitable organizations.

However, charities are very concerned for the future, anticipating a decline in Federal social spending to address urgent needs like childrens' services, homelessness, job training, health and welfare, just as the need for help accelerates.

Nonprofit charities are very concerned about their ability to maintain their current level of services, let alone expand to meet the increasing demand for services. While charitable contributions grew by 3.7 percent in 1994, contributions for human services, the area most closely associated with poverty programs, dropped by 6 percent.

Private charities can never replace government programs for national social priorities. However, nonprofit charities across America play a critical role in providing vital services to people in need. The Federal Government needs to take steps to ensure we are doing everything we can to encourage private charitable support to supplement government programs and government support.

The Federal Government needs to take steps to encourage greater private sector support. Government must provide both the leadership and the incentives to encourage more private, charitable giving through the tax code. Analysts believe the gift of closely held business stock is an underutilized source of potential funds for charitable activities that warrants closer attention and legislative remedies.

A closely held business is a corporation, in which stock is issued to a small number shareholders, such as family members, but is not publicly traded on a stock exchange. This business form is very popular for family businesses involving different generations.

However, today, the tax cost of contributing closely-held stock to a charity or foundation can be prohibitively high. The tax burden discourages families and owners from winding down a business and contributing the proceeds to charity. This legislation would permit certain tax-free liquidations of closely held corporations into one or more tax exempt 501(c)(3) organizations.

Under current law, a corporation may have to be liquidated to effectively complete the transfer of assets to the charity for its use, incurring a corporate tax at the Federal rate of 35 percent. In 1986, Congress repealed the "General Utilities" doctrine, imposing a corporate level tax on all corporate transfers, including those to tax exempt charitable organizations. Additionally, a charitable organization could also be subject to taxation on its unrelated business income from certain types of donated property.

These tax costs make contributions of closely held stock a costly and ineffective means of transferring resources to charity. If the Federal Government is going to find new ways to encourage charitable giving, we need to look at these tax costs which undercut both the incentive to give and the potential value of any charitable gift.

Governments at the Federal, State, and local level, are reducing spending in all areas of their budgets, including spending for social services. Public charities and private foundations already distribute funds to a diverse and wide ranging group of social support organizations at the community level. Congressional leaders have looked to private charities in our religious institutions, our schools and communities, to fill the void created by government cut-backs. However, volunteers are already hard at work in their communities and charitable funding is already

stretched dangerously thin. Charities need added tools to unlock the public's desire to give generously. We need to create appropriate incentives for the private sector to do more.

In California and throughout the country, volunteer and charitable organizations, together, perform vital roles in the community and they deserve our support. Allow me to provide a few examples, which could be repeated in any town across America:

Summer Search: In San Francisco, the Summer Search Foundation is hard at work preventing high school students from dropping out of school. Summer Search helps students not only successfully complete high school but, for 93 percent of the participants, go on to college. By increasing charitable contributions, groups like Summer Search can help keep kids in school and moving forward toward graduation and a more productive contribution to the Nation.

Drew Center For Child Development: Dramatic increases in the number of child abuse and neglect cases, which now total nearly 3 million children in the United States, is deeply troubling for everyone. We must do everything to prevent these cases, but cutbacks in Social Services block grants will impose new burdens on local communities. Charitable support can be a small part of the solution.

Drew Child Development, a child care and development center in the Watts neighborhood of Los Angeles, works directly with children and families involved in child abuse environments. Unfortunately, these 130 families in which the Drew Center supports is not the end of the story. There are thousands of other families that could benefit from this child abuse treatment program if more resources were available.

The Drew Center expects cuts in government funding. They anticipate that they will have to cut counselor positions and turn needy families away. Stronger incentives for private sector giving would provide the Drew Center with some of the resources needed to combat this enormous problem.

The Chrysalis Center: In 1993 I visited the Chrysalis Center, a nonprofit organization in downtown Los Angeles dedicated to helping homeless individuals find and keep jobs. Chrysalis provides employment assistance, from training in job-seeking skills to supervised searches for permanent employment. In 1995, the center helped over 750 people find work, and has helped place more than 3,000 people in permanent, full-time jobs in the last decade.

However, there are still an estimated 15,000 homeless individuals in the Los Angeles area that are able to work. Most of these men and women, however, lack literacy skills and the resources to move from the streets to full-time employment. With increased charitable contributions, Chrysalis would be able to offer hope and opportunity for thousands more.

Today, I introduce tax incentive legislation to encourage stronger support for the Nation's vital charities. The proposal:

Eliminates the corporate tax upon liquidation of a qualifying closely-held corporation under certain circumstances. The legislation would require 80 percent or more of the stock to be bequeathed to a 501(c)(3) tax-exempt organization; and

Clarifies that a charity can receive mortgaged property in a qualified liquidation, without triggering unrelated business income tax for a period of 10 years. This change parallels the exemption from unrelated business income tax provided under current law for direct transfers by gift or bequest.

Under the legislation, the individual donor would receive no tax benefit from the proposal, as the tax savings generated would increase the funds available for the charity.

By eliminating the corporate tax upon liquidation, Congress would encourage additional, and much needed, charitable gifts. Across America, countless thousands have built successful careers and have generated substantial wealth in closely-held corporations. As the individuals age and plan for their estate, we should help them channel their wealth to meet philanthropic goals. Individuals who are willing to make generous bequests of companies and assets, often companies they have spent years building, should not be discouraged by substantially reducing the value of their gifts through Federal taxes.

While the Joint Tax Committee has not yet prepared an official revenue cost, previous estimates suggest a 7-year cost of about $600 million.

However, the revenue estimate represents the expectation of significant transfer to charity as a result of the legislation. By the same techniques used to estimate the tax cost to Treasury, we estimate between $3 and $5 billion in charitable contributions would be stimulated by this tax change. This tax proposal may generate as much as seven times its revenue loss in expanded charitable giving.

The legislation has been endorsed by the Council on Foundations, the umbrella organization for foundations throughout the country, and the Council of Jewish Federations.

I am pleased to add my colleagues MARK HATFIELD, of Oregon, SLADE GORTON of Washington and MAX BAUCUS, of Montana, as co-sponsors of the legislation. I encourage others to review this legislation and listen to the charitable sectors in your community. During this past year, the proposed legislation went through several different revisions in order to sharpen the bill's focus and target the legislation in the most effective manner. I want to encourage the review process to continue, so we may continue to build support and target the bill's impact for the benefit of the Nation's nonprofit community.

With virtually limitless need, we must look at new ways to encourage and nurture a strong charitable sector. The private sector cannot begin to replace the government role, but if the desire to support charitable activity exists, we should not impose taxes to deplete the value of that support.

Tax laws should encourage, rather than impede, charitable giving. By inhibiting charitable gifts, Federal tax laws hurt those individuals that most need the help of their government and their community.

I request unanimous consent to have the legislation and section-by-section analysis printed in the RECORD.

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

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF CORPORATE LEVEL TAX UPON LIQUIDATION OF CLOSELY HELD CORPORATIONS UNDER CERTAIN CONDITIONS.

(a) IN GENERAL.—Paragraph (2) of section 337(b) of the Internal Revenue Code of 1986 (relating to treatment of indebtedness of subsidiary, etc.) is amended—

(1) by striking "Except as provided in subparagraph (B)" in subparagraph (A) and inserting "Except as provided in subparagraph (B) or (C)", and

(2) by adding at the end the following new subparagraph:

"(C) EXCEPTION IN THE CASE OF STOCK ACQUIRED WITHOUT CONSIDERATION.—If the 80-percent distributee is an organization described in section 501(c)(3) and acquired stock in a liquidated domestic corporation from either a decedent (within the meaning of section 1014(b)) or the decedent's spouse, subparagraph (A) shall not apply to any distribution of property to the 80-percent distributee. This subparagraph shall apply only if all of the following conditions are met:

"(i) Eighty percent or more of the stock in the liquidated corporation was acquired by the distributee, solely by a distribution from an estate or trust created by one or more qualified persons. For purposes of this clause, the term 'qualified person' means a citizen or individual resident of the United States, an estate (other than a foreign estate within the meaning of section 7701(a)(31)(A)), or any trust described in clause (i), (ii), or (iii) of section 1361(c)(2)(A).

"(ii) The liquidated corporation adopted its plan of liquidation on or after January 1, 1997.

"(iii) The 80-percent distributee is an organization created or organized under the laws of the United States or of any State.

Nothing in subsection (d) shall be construed to limit the application of this subsection in circumstances in which this subparagraph applies.".

(b) REVISION OF UNRELATED BUSINESS INCOME TAX RULES TO EXEMPT CERTAIN ASSETS.—Subparagraph (B) of section 514(c)(2) of the Internal Revenue Code of 1986 (relating to property acquired subject to mortgage, etc.) is amended by inserting "or pursuant to a liquidation described in section 337(b)(2)(C)," after "bequest or devise,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SECTION BY SECTION DESCRIPTION

Amending the Internal Revenue Code to permit certain tax free corporate liquidations into 501(c)(3) organizations and to revise the Unrelated Business Income Tax (UBIT) rules regarding the receipt of mortgaged property in a corporate liquidation:

Section 1: Establishes an exception under IRC section 337 to permit a tax-free liquidation of a corporation into a charitable organization under IRC section 501(c)(3) when eighty percent or more of the corporation is dedicated to the charity through a bequest at death by a US citizen or resident of the US, an estate or trust.

Section 2: Expands the current law ten year exemption from the Unrelated Business Income Tax to include entities receiving mortgaged assets in a corporate liquidation. When a tax exempt entity receives mortgaged property from a corporate liquidation covered by section one of this bill, no Unrelated Business Income Tax would be imposed for 10 years.

Section 3: The amendment takes effect upon date of enactment for corporate plans of liquidation adopted on or after January 1, 1997.•

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. INHOFE, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mrs. HUTCHISON, Mr. ROBB, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. MCCONNELL, Mr. FORD, and Mr. NICKLES):

S. 2143. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

THE ISTEA INTEGRITY RESTORATION ACT

Mr. WARNER. Mr. President, I am pleased to introduce today, along with my distinguished colleague from Florida, Mr. GRAHAM, the ISTEA Integrity Restoration Act. We have a number of cosponsors, I am pleased to say, whom I shall not list. But it is a bipartisan group.

As chairman of the Subcommittee on Transportation and Infrastructure, and the distinguished Senator from Florida is a member of my subcommittee, we do this on behalf of many Senators and invite others, hearing of this introduction at this time, to consider adding their names as cosponsors.

This legislation is the product of 2 years of work on the part of many Senators and, indeed, specifically a group of States, 21 in number, known as STEP-21. The goals of this group of States, referred to as STEP-21, are incorporated in this legislation. This group shares, among those goals, that of ensuring that our surface transportation system is prepared to respond to the economic challenges of the 21st century.

The current surface transportation authorization bill, known as ISTEA—I might refer to it as ISTEA 1, and next year I, hopefully, will be a part of the legislating group to provide for ISTEA 2—but ISTEA 1 expires September 30, 1997. So it is imperative that the Congress of the United States draft and legislate ISTEA 2 next year.

American products are reaching domestic and international markets in shorter times. Manufacturing plants are reducing inventories and relying on just-in-time deliveries. I visited an industrial plant in my State, in Luray, VA, which is primarily making blue jeans. I asked them, "How do you compete with the low-cost labor market in Asia? Indeed, how do you compete with the European markets?" They came straight to the point. No. 1, the hard work delivered by the citizens of Virginia in that plant. But, No. 2, it is very clear, is turnaround time. We get an order in, we fill the boxes, we put it on the truck, and that truck turns around and goes back, back to the purchasers in a very short period of time. Mr. President, that turnaround time, that ability to turn goods around on the roads as they exist in America today that will exist even in better form tomorrow through improved bridges and other forms of transportation, that gives us an edge in this "one world market" to beat those other competitors.

Throughout Virginia, all types of industries tell me that their ability to get the goods to domestic or international markets makes the difference in their competitiveness here at home, indeed, and worldwide. In this one-world market, our existing modern transportation system is probably one of the major factors that gives us such a competitive edge as we have here today. But we must improve that for a tougher competitive environment of tomorrow.

We are a mobile society here in the United States, but our transportation challenges are growing as we face an aging surface transportation system. As we work to develop a national consensus on transportation policy, I remain committed to a future that provides for easier access for every community to a modern, safer road system designed for ever-increasing volumes of traffic.

Responding to the congestion on our Nation's highways and the resulting lost productivity is a primary focus of the legislation we are introducing today, such that all in America can study it. And tomorrow, next year, we will begin work in response to the needs of our country.

It is not too early to begin the discussion, to ensure that the next multiyear surface transportation bill provides a system that:

First, effectively moves people and goods—that is more effectively;

Second, provides for the safety of the traveling public, and this Senator and, indeed, my colleague from Florida have always stood in the forefront for provisions which add safety to our transportation system;

Third, fosters a healthy economy;

Fourth, ensures a consistent level of performance and service among the 50 States and provides an equitable distribution of highway trust funds that responds to the challenging demographics in America.

These are our national priorities that must be met.

The legislation Senator GRAHAM and I are introducing today is a sound approach that meets these priorities.

With the completion of the Interstate Highway System, the mobility of Americans has steadily increased.

Every day we commute longer distances to our jobs. We travel longer distances for vacations or to visit friends and family.

In testimony before the Transportation and Infrastructure Subcommittee this year, Secretary of Transportation Peña indicated that gridlock on our Nation's highways wastes $30 billion annually. The ISTEA Integrity Restoration Act addresses this critical problem by redirecting Federal dollars to our States on a more equitable basis.

Our legislation also builds upon the successes of ISTEA by: preserving public participation and the role of local governments in transportation decision-making; continuing the national goal of intermodalism; expanding State and local authority to determine transportation priorities; and, increasing the flexibility to use transportation dollars on other modes of transportation that improve air quality, facilitates the flow of traffic or enhances the preservation of historic transportation facilities.

The ISTEA Integrity Restoration Act continues to move our surface transportation policy forward. It responds to the single most glaring failure of ISTEA by modernizing our outdated Federal apportionment formulas.

Virginia and many other States have historically been "donor" States—sending more into the Highway Trust Fund that we receive in return.

This legislation addresses the needs of the "donor" States and also recognizes the demands of our rural States and small States with dense populations.

This bill is an honest, good-faith effort to reduce the extremes in the funding formulas. It provides that all States should receive at least 95 percent of the funds their citizens pay into the highway trust fund by way of the Federal gas tax.

We are introducing this legislation today, near the end of the 104th Congress, to stimulate discussion among the States, local governments and various interested groups on how the Congress should approach the reauthorization of ISTEA.

As chairman of the Subcommittee on Transportation and Infrastructure of the Environment and Public Works

Committee, the subcommittee will hold extensive hearings next year of ISTEA reauthorization.

I pledge to work with all of my colleagues to craft a multiyear reauthorization bill that addresses the issues I have outlined. I welcome all comments on the legislation I am introducing today as we share the common goal of providing for an efficient transportation system for the 21st century.

I want to credit my distinguished colleague from Florida, because the two of us, along with others, have stood toe-to-toe on this floor trying to bring into balance a more equitable system of allocation of the public highway trust funds donated by our respective States. As I said, some of our States, like Virginia and Florida, are referred to as donor States, meaning we send more to Washington than we get back. That must be adjusted next year.

Mr. GRAHAM. Mr. President, I appreciate the opportunity this afternoon to join my friend and colleague from Virginia in the introduction of this important legislation. I believe there are a couple of historical notes that should be made at this time.

First is, we are introducing legislation to carry on a program which will expire 368 days from today. By introducing this legislation today, we are giving to our colleagues—but more important to the millions of Americans who will be affected by this legislation—more than a year to give full consideration to the policy proposals which we are advancing.

We are doing that at the very time that, here on the Senate floor, other important matters are being denied that kind of full attention and exploration. I commend the Senator from Virginia for his vision and his farsightedness in making it possible for such a dispassionate, thoughtful consideration of this important legislation.

Mr. WARNER. Mr. President, I thank my distinguished colleague for helping draft the first blueprint of this exciting challenge for America.

Mr. GRAHAM. The second historical point is consistent with what my friend from Virginia has just said, and that is we are at a new point of departure for our surface transportation system. We could date the current era with adoption of the Interstate Highway Act during the administration of President Eisenhower. We have had a great national objective over almost a half century, to link America with the highest standards of highway engineering, design and construction and maintenance. We have largely accomplished the task that we set out for ourselves in the 1950's.

Now the question is, what will this generation's contribution be to America's transportation for the first half of the 21st century? The decisions that we will be making in 1997 will be an important step toward answering that question of what we shall do for the future of America's transportation.

I am pleased to cosponsor this important legislation which has a number of significant provisions. One of those provisions is the need for equity in the funding of our highway system. In report after report—and I bring to the Senate's attention just two of many. One, a report in 1985, "Highway Funding, Federal Distribution Formulas Should Be Changed," which was produced prior to the 1991 act upon which we are currently distributing our Federal highway funds, and then a second dated November of 1995, 4 years after the adoption of the 1991 Highway Act, which is entitled "Highway Funding Alternatives for Distributing Highway Funds" in which it states that "the formula process in the current law is cumbersome, yielding a largely predetermined outcome and partially relies on outdated and irrelevant factors."

So, Mr. President, in spite of repeated reports pointing out shortcomings in our past and current distribution laws, we still are subject to the criticism of being cumbersome, predetermined, and outdated and irrelevant in our distribution facts.

One of the important objectives of this legislation that we introduced today is to bring greater rationality and modernity into our distribution of highway funds while we also strive to give greater flexibility to the States that have the responsibility for administering these funds.

I am glad that we commenced the debate today. I look forward to more than a year of opportunity to move this idea into a form that can come before the Senate and our colleagues in the House for passage and to usher in a new postinterstate era for American highway transportation.

By Mr. D'AMATO (for himself, Mr. KERRY, Mr. FAIRCLOTH, Mr. PRESSLER, and Mr. DODD):

S. 2144. A bill to enhance the supervision by Federal and State banking agencies of foreign banks operating in the United States, to limit participation in insured financial institutions by persons convicted of certain crimes, and for other purposes; to the Committee on Banking, Housing, and Urban affairs.

THE FOREIGN BANK ENFORCEMENT ACT OF 1996

• Mr. D'AMATO. Mr. President, today I introduce the Foreign Bank Enforcement Act of 1996.

This legislation proposes a number of important modifications to statutes governing the activities of foreign banks operating in the United States. It reflects the recommendations of Federal and State bank regulators. It will enhance the ability of U.S. regulators to oversee the 275 foreign banks from 61 countries now operating in the United States.

The world's financial system is increasingly interconnected, and foreign banks operate in the United States to a greater degree than ever before. These banks now hold more than $1 trillion in U.S. banking assets and make approximately 30 percent of the amount of all loans to U.S. businesses.

The integrity of the U.S. financial system is one of our most important national assets. This asset is threatened whenever any bank—domestic or foreign—operating on our shores engages in misconduct or fraud. It is therefore imperative that U.S. bank regulators possess all of the tools necessary to supervise the U.S. operations of foreign banks with the same care and attention as those of our domestic banks.

Over the past several years, the activities of rogue traders at banks and securities firms have shaken world financial markets. Last year, the $1.3 billion in hidden losses from derivatives trading by Nicholas Leeson in Singapore brought down the venerable Barings Bank in Great Britain. In September 1995—and much closer to home—Federal bank regulators learned that Daiwa Bank's New York branch had incurred losses of $1.1 billion from the unauthorized trading activities of just one employee, Mr. Toshihide Iguchi, over a period of 10 years.

Mr. President, the Daiwa matter is particularly troubling. Although Daiwa senior management learned of these hidden trading losses of $1.1 billion in July 1995, they concealed the losses from U.S. bank regulators for almost 2 months. Even worse, Daiwa senior management directed Mr. Iguchi to continue his fraudulent transactions during July and August 1995 to avoid detection of the losses.

In November 1995, Federal and State bank regulators took the stern, but entirely appropriate step, of terminating all of Daiwa Bank's operations in the United States. The bank also paid a criminal fine of $340 million, and two of its officials entered guilty pleas to criminal offenses.

In the wake of the Daiwa scandal, I asked the Federal Reserve to conduct a full inquiry into this matter and to examine our existing scheme for regulating the U.S. activities of foreign banks. The Banking Committee also held a hearing in November 1995 on Daiwa and related matters at which Federal and State bank regulators testified.

Mr. President, it is clear that we must learn from the Daiwa scandal. Over the past year, the Banking Committee has worked with Federal and State regulators, including the Federal Reserve and the New York State Banking Department, to identify any limitations in the existing laws governing the U.S. operations of foreign banks.

After reviewing the recommendations of Federal and State bank regulators, I today introduce the Foreign Bank Enforcement Act. This legislation would make the following five changes to the statutory scheme now governing the U.S. operations of foreign banks.

First, it would clarify that the Federal Reserve possesses the statutory authority to set conditions for the termination of a foreign bank's activities in the United States. Under the International Banking Act of 1978, the Federal Reserve may order the complete termination of a foreign bank's branches and agencies in the U.S. This amendment would make explicit that the Federal Reserve also may issue, on an involuntary basis, a termination order that sets specific conditions on the termination of a foreign bank's U.S. activities. These conditions might include requiring the terminated bank to maintain the records of its U.S. activities in the U.S., to make its officials available in the U.S. to facilitate U.S. investigatory efforts, and to escrow funds in the U.S. to meet contingent liabilities after the foreign bank has left the U.S.

Second, this bill would clarify the authority of federal banking agencies to remove convicted felons from the banking industry. Under Section 8(g) of the Federal Deposit Insurance Act, the Federal Reserve and other Federal banking agencies may suspend and permanently bar from the banking industry persons convicted of certain felonies. This amendment would make clear that Federal banking agencies possess this authority with regard to persons who are not actually employed by a banking organization.

Third, the Foreign Bank Enforcement Act would expand the current automatic bar on the employment of persons convicted of a crime involving dishonesty, breach of trust, or money laundering. Under Section 19 of the Federal Deposit Insurance Act, a person convicted of such crimes may not work for an insured depository institution without the approval of the Federal Deposit Insurance Corporation; it does not expressly bar the future employment of a convicted person by a bank holding company, an Edge or Agreement corporation, or a U.S. branch or agency of a foreign bank. For instance, under the current Section 19, Mr. Iguchi, the senior Daiwa official who caused the bank's $1.1 billion trading loss, would not automatically be barred from working for another U.S. branch or agency of a foreign bank. This amendment would close this loophole.

Fourth, this legislation would increase the ability of the federal bank regulators to obtain from foreign bank supervisors critical examination and supervision-related information concerning foreign banks operating in the U.S. Specifically, it would amend the International Banking Act of 1978 to provide explicitly that federal bank regulators may keep confidential critical bank-examination information obtained from foreign supervisors. This provision would not protect such information from disclosure to Congress or to the courts and is similar to a provision in the securities laws that allows the SEC to maintain the confidentiality of information received from a foreign securities authority.

Finally, this bill would authorize Federal courts, upon a motion of a U.S. Attorney, to issue orders authorizing the disclosure of matters occurring before a grand jury to State bank regulators. Under current law, such disclosures may be made only to Federal bank regulators, and, as the Daiwa matter demonstrates, State bank regulators play an important role in the supervision of foreign banks operating in the U.S.

Mr. President, we must not allow loopholes in existing law to erode the confidence of the American people in the integrity of our financial system. Congress must provide Federal and State bank regulators with all of the tools necessary to supervise fully the U.S. operations of foreign banks. The Foreign Bank Enforcement Act proposes a number of narrow, but important, changes in existing law. It reflects the recommendations of the Federal Reserve and other bank regulators. I urge the swift approval of this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2144

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 "Foreign Bank Enforcement Act of 1966".

SEC. 2. UNAUTHORIZED PARTICIPATION BY CONVICTED PERSONS.

Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended—

(1) in subsection (a), by striking "Corporation" and inserting "appropriate Federal banking authority"; and

(2) by adding at the end the following new subsection:

"(c) DEFINITION.—For purposes of this section—

"(1) the term 'appropriate Federal banking authority' means—

"(A) the Corporation, in the case of any insured depository institution, except as specifically provided in subparagraphs (B), (C), and (D), or in the case of any insured branch of a foreign bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of any bank holding company and any subsidiary thereof (other than a bank), uninsured State branch or agency of foreign bank, or any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act;

"(C) the Comptroller of the Currency, in the case of any Federal agency or uninsured Federal branch of a foreign bank; and

"(D) the Office of Thrift Supervision, in the case of any savings and loan holding company and any subsidiary thereof (other than a bank or a savings association) or any institution that is treated as an insured bank under section 8(b)(9); and

"(2) the term 'insured depository institution' shall be deemed to include any institution treated as an insured bank under paragraph (3), (4), or (5) of section 8(b) or as a savings association under section 8(b)(9).".

SEC. 3. REMOVAL ACTIONS AGAINST PERSONS CONVICTED OF FELONIES.

Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended—

(1) by inserting ", or any order pursuant to subsection (g)," after "any notice"; and

(2) by inserting "or order" after "such notice".

SEC. 4. INTERNATIONAL COOPERATION.

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following new subsections:

"(c) INFORMATION OBTAINED FROM FOREIGN SUPERVISORS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Board, the Comptroller, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision shall not be compelled to disclose information obtained from a foreign supervisor if—

"(A) the foreign supervisor has, in good faith, determined and represented to such agency that public disclosure of the information would violate the laws applicable to that foreign supervisor; and

"(B) the United States agency obtains such information pursuant to—

"(i) such procedure as the agency may authorize for use in connection with the administration or enforcement of the banking laws; or

"(ii) a memorandum of understanding.

"(2) TREATMENT UNDER TITLE 5.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered to be a statute described in subsection (b)(3)(B) of such section 552.

"(d) SAVINGS PROVISION.—Nothing in this section authorizes the Board, the Comptroller, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision to withhold information from the Congress or to prevent such agency from complying with an order of a court of the United States in an action commenced by the United States or by such agency.".

SEC. 5. TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.

Section 7(e) of the International Banking Act of 1978 (12 U.S.C. 3105(e)) is amended by adding at the end the following new paragraph:

"(8) PROVISIONS OF A TERMINATION ORDER.—An order issued by the Board under paragraph (1) or by the Comptroller under section 4(i) may contain such terms and conditions as the Board or the Comptroller, as the case may be, deems appropriate to carry out this subsection.".

SEC. 6. DISCLOSURE OF CERTAIN MATTERS OCCURRING BEFORE GRAND JURY.

Section 3322(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "State or Federal" before "financial institution"; and

(2) in paragraph (2), by inserting "at any time during or after the completion of the investigation of the grand jury" before "upon".

SUMMARY OF THE FOREIGN BANK ENFORCEMENT ACT OF 1996

SECTION 2. EMPLOYMENT PROHIBITION

Section 19 of the Federal Deposit Insurance Act ("FDI Act"), (12 U.S.C. 1829), prohibits anyone convicted of a criminal offense from being employed by, or participating in the affairs of, an insured depository institution unless they receive the written consent of the FDIC. Section 19 covers only employees of depository institutions and thus does not currently prohibit the employment of convicted felons in a bank holding company, Edge or Agreement Corporation, or in a U.S. branch or agency of a foreign bank. The Act would expand the employment bar to these regulated entities and give authority for regulatory review to the federal regulator with oversight over the affected institution.

SECTION 3. REMOVAL ACTIONS

Banking regulators are empowered under Section 8(g) of the FDI Act (12 U.S.C. 1818(g)) to suspend or permanently prohibit a person who is indicted or convicted of a felony from participating in the affairs of a regulated institution. Under 8(g), the regulatory order must be made against an "institution-affiliated party." The FDI Act clarifies that even when the person resigns or is terminated by the institution and is thus no-longer an "institution-affiliated party," the regulators may prohibit employment in regulated institutions.

SECTION 4. INTERNATIONAL COOPERATION

Section 4 provides that communications from foreign supervisors to U.S. banking agencies may be held confidential. The provision, by making such protection explicit in the law, would encourage foreign bank supervisors to communicate more closely with their U.S. counterparts, thereby contributing to better oversight of banks operating internationally. The provision parallels the authority already available to securities regulators, and would not affect the ability of Congress or the courts to obtain such information.

SECTION 5. TERMINATION OF FOREIGN BANK OFFICES

The International Banking Act of 1978 (12 U.S.C. 3105(e)(1)) authorizes the Federal Reserve Board and the OCC to terminate a foreign bank's activities in the U.S. The Act is unclear, however, about whether the termination order can require the foreign bank to take actions such as establishment of escrow accounts for the payment of potential fines. Section 5 states explicitly that the regulators may include appropriate terms and conditions in their termination orders.

SECTION 6. GRAND JURY DISCLOSURE

Under section 3322 of the U.S. Criminal Code, (18 U.S.C. 3322(b)) a federal court may authorize disclosure to federal banking regulators of grand jury information used by law enforcement authorities investigating federal banking law violations. Section 6 expands the scope of this provision to include disclosure of such information to state bank regulatory authorities.•

By Mr. PELL (for himself and Mr. HATFIELD):

S. 2147. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

THE LIBRARY OF CONGRESS COMMEMORATIVE

Mr. PELL. Mr. President, at the request of the Library of Congress I am introducing, for myself and for the senior Senator from Oregon [Mr. HATFIELD], the Library of Congress Commemorative Coin Act, in recognition of the 200th anniversary of the Library of Congress, which will occur in the year 2000.

Established in 1800, the Library of Congress is our Nation's oldest national cultural institution and has become the largest repository of recorded knowledge in the world. It stands as a symbol of the vital connection between knowledge and democracy.

The Library of Congress Commemorative Coin Act authorizes the Secretary of the Treasury to issue, in year 2000, 500,000 silver dollars and 500,000 half dollar coins commemorating the anniversary. The proceeds of the sale of the coins will support not only the observance of the bicentennial of the Library's creation, but also digitization projects that will share the resources of the Library with the Nation's schools and libraries.

James Madison said "Learned institutions ought to be the favorite objects of every free people. They throw the light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty." This bill commemorates the fact that the Library of Congress for two centuries has fulfilled James Madison's hope by dispensing the light of knowledge over the Congress, the Nation, and the world.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2149. A bill to establish a program to provide health insurance for workers changing jobs; to the Committee on Labor and Human Resources.

THE TRANSITIONAL HEALTH INSURANCE COVERAGE FOR WORKERS BETWEEN JOBS ACT

Mr. KENNEDY. Mr. President, last month, President Clinton signed the Kassebaum-Kennedy Health Insurance Reform Act. That legislation provides portability of health insurance coverage. It said to American workers and their families: you do not have to lose your health insurance coverage because you lose your job.

That legislation is important. But for too many workers who lose their job, it could be an empty promise if the coverage is unaffordable. In fact, those between jobs typically have great difficulty paying the cost of insurance coverage. In 1996, family coverage costs an average of $6,900 a year, and individual coverage costs $2,600.

The legislation we are introducing today will help fill this gap. It is a modified version of President Clinton's proposal to provide temporary assistance for workers to keep their coverage between jobs. I commend the President for offering this progressive, thoughtful program, and I commend my colleague, Senator JOHN KERRY, for his leadership on this issue and his important contribution to the development of this legislation.

This is a logical and needed step in health insurance reform. The needs of the unemployed are especially great. Since 1936, we have provided a temporary program of income maintenance to workers who lose their jobs. Because of the high cost of health care, temporary assistance for health insurance during periods of unemployment is essential for American workers in 1996. Unemployment insurance alone is no longer sufficient.

Temporary health insurance assistance is especially critical as we face the economic changes associated with the new global economy and changing corporate behavior. Corporations used to reduce their work forces only when they were in trouble. But now, no worker can count on job security, since the trend is for profitable companies to lay off good workers to become even more profitable. Experts estimate that the average worker entering the work force today will change jobs seven to nine times in a typical career. Some of these workers will choose to change jobs, but others will be forced to. The Department of Labor estimates that in 1996 alone, 8.5 million workers will collect unemployment insurance for some period of time.

The legislation we are proposing today will provide financial assistance to help maintain health insurance coverage for workers and their families who are no longer eligible for on-the-job coverage because they have lost their job. To qualify, an individual would have to be eligible for unemployment insurance, would have to have had employer-sponsored coverage for 6 months before becoming unemployed, and could not be eligible for employment-based coverage through a spouse or domestic partner or for Medicaid or Medicare.

In the month for which assistance is provided, the family income would have to be 240 percent of poverty or less—about $37,440 for a family of four. Assistance would be limited to 6 months. The goal of this program is to help workers in transition between jobs—not to provide permanent coverage.

The program will be administered through the states. Typically, an eligible individual will receive assistance in paying the cost of COBRA continuation coverage under current law. If the worker is not eligible for COBRA, assistance will be available for any other policy that is not more generous than the Blue Cross-Blue Shield standard option plan available to Federal employees and Members of Congress.

There are a number of unanswered questions about the best way to structure the program, and I look forward to working with my colleagues in the next Congress, with the administration, and outside experts to improve it

before it is passed. But the underlying principle is clear. No family should lose its health insurance coverage because a breadwinner is in transition between jobs.

The administration estimates that the cost of the program will be approximately $2 billion a year over the next 6 years, that approximately 3 million workers and their families will be helped to maintain their coverage every year.

The program can be paid for largely by closing two of the most notorious corporate tax loopholes—the title passage loophole and the runaway plant loophole. The first loophole involves bookkeeping transactions under which multinational corporations artificially shift income to overseas operations to avoid U.S. taxes. The second loophole allows corporations to move jobs abroad, accrue large in foreign bank accounts, and avoid U.S. taxes. Closing these loopholes to help unemployed workers keep their health insurance coverage is an appropriate use of the revenue.

This program is a modest attempt to help American workers cope with the disclosures of modern industrial life and the new global economy. But it is also important to understand what it does not do:

It does not add to the deficit. The program will be fully financed. In President Clinton's budget, it was paid for within his balanced budget plan.

It does not impose additional burdens on employers or create an employer mandate.

It is not an unfunded mandate on the States. The Federal Government pays 100 percent of the cost of the program. If a State chooses not to administer the program, it is not required to do so.

The Kassebaum-Kennedy health insurance reform bill passed the Senate by a strong bipartisan vote of 98 to 0, because it was clearly needed. This additional improvement is also needed—to help see that the promise of health insurance portability is fulfilled in practice.

We have heard a great deal of talk about family values in this campaign year. One of the most important expressions of family values is to help families keep their health insurance coverage when a breadwinner is between jobs. For the millions of American workers who worry that their family will lose their health insurance if they lose they job, this bill can be a lifeline, and I look forward to its bipartisan passage next year.

Mr. KERRY. Mr. President, today Senator KENNEDY and I are introducing the Transitional Health Insurance Coverage for Workers Between Jobs Act. This bill would build on the recently passed Kennedy-Kassebaum health bill by providing funding to States in order to finance up to 6 months of health coverage for unemployed workers and their families.

The Kennedy-Kassebaum bill was an important step toward assuring portability of health insurance coverage. More than 20 million people will benefit from that legislation and the senior Senator from Massachusetts deserves our thanks for his tireless efforts to achieve its passage. Unfortunately, however, although more people are now allowed to purchase health care coverage, many workers are still unable to afford this coverage. Those workers who have been laid off are most likely not to be able to obtain coverage.

The bill we are introducing today would help temporarily unemployed workers to afford health coverage for themselves and their families. It would do so by providing Federal assistance to pay the premium for health insurance. A worker would be eligible who had employer-based coverage in his or her prior job, is receiving unemployment benefits, and has income below certain levels. Families would have to earn no more than $37,440 for a family of four to qualify for the subsidy. People who are eligible for Medicaid or Medicare would not be able to receive this subsidy. Funds would be allocated to States based on the proportion of unemployed persons in the State who collected unemployment insurance [UI] benefits relative to all persons in the Nation who collected UI benefits.

This bill is necessary because, in the real world, workers between jobs still face mortgage or rent payments, utility bills, and other expenses necessary to support themselves and their families in addition to health insurance costs. Many lack a source of income and have exhausted family savings and other resources during the period of unemployment. And unemployment insurance in most states barely pays enough to cover rent and food—the average monthly UI benefit was only $692 in 1993. In today's increasingly turbulent economy, a secure job is difficult to find. This year in Massachusetts, for example, such major corporations as Digital, Raytheon, and Fleet Bank have laid off hundreds of workers. And over the last few years, most of the major hospitals in my State have significantly downsized their work force. This bill will help workers as they move to new jobs.

I want to squarely address the issue of the cost of this program. The administration has estimated the annual cost to be approximately $2 billion. But I want to make clear that we are committed to fully offsetting the cost with other budget components. I am heartened that President Clinton was able to support establishing such a program in the context of his fiscal year 1997 balanced budget request. Senator KENNEDY has described two corporate loopholes we propose to close. I look forward to working with the administration and my colleagues to identifying a budget offset that is acceptable to my colleagues for this important program.

As Senator KENNEDY said, this plan will not add to the deficit, does not impose additional burdens on employers, and is not an unfunded mandate on States. I look forward to working with the administration and my colleagues to refine this bill and to pass it in the 105th Congress.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. HATCH, Mr. BENNETT, Mr. CAMPBELL, Mr. BURNS, Mr. NICKLES, and Mr. STEVENS):

S. 2150. A bill to prohibit extension or establishment of any national monument on public land without full compliance with the National Environmental Policy Act and the Endangered Species Act, and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

THE PUBLIC LANDS PROTECTION ACT OF 1996

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation for myself, Senator CRAIG, Senator HATCH, Senator BENNETT, Senator GRAMS, Senator NICKLES, Senator CAMPBELL, Senator BURNS, and Senator STEVENS to protect public lands from the type of assault visited upon the people of Utah last week, when our President created a new national monument containing 1.7 million acres. That was done without a process, without a process involving public hearings, without a process involving notification of the Utah delegation, and without courtesies extended in advance so the delegation could be responsive to the particular delineations of the area suggested.

I think it is further important to point out the announcement of the President's action was not made in the State of Utah but in the State of Arizona. The withdrawal of land, 1.7 million acres, was in the State of Utah. One could curiously ask, for a Presidential proclamation, why go to another State? It was clear that this action was not welcome in Utah. There would have been many school children to protest that action.

The legislation I introduce with my colleagues is called the Public Lands Protection Act of 1996. It provides that no extension or establishment of a national monument can be undertaken pursuant to the Antiquities Act without full compliance with the National Environmental Policy Act, NEPA, and the Endangered Species Act, and an affirmative act of Congress.

Yet, by invoking the Antiquities Act, the President chose to ignore NEPA, ignore the Endangered Species Act, and take action almost as though it were simply a Presidential mandate that was necessary. Some of us might suggest it was political expediency suggested by some of the President's advisers that caused him to circumvent the process, the public process.

We have had some tough conversations in the Congress. The California

Desert Wilderness was an example, of contested legislation and contested hearings. But the process went forward. We got the job done. This action taken in Utah last week defies logic, defies principle, and defies all semblance of courtesy. In effect, the President declared himself to be above the law by unilaterally declaring that the action he took, which unquestionably is a "major Federal action" within the meaning of NEPA, did not require an analysis to determine its impact on the environment. By specifically using the authority of the Antiquities Act, a statute enacted in 1906 to enable President Theodore Roosevelt to take action to protect unique features of our public land, the President conveniently sidestepped NEPA and the requirement to consider the environmental consequences of his action.

We know President Clinton is no President Theodore Roosevelt. Theodore Roosevelt allowed a tremendous public dialog to take place before he invoked the Antiquities Act. President Carter invoked the Antiquities Act in my State in a massive land withdrawal. But there was a long process. We didn't like it, but we participated. The people of Utah simply had the national monument dictated to them.

Further, by creating a national monument in the manner the President chose, he circumvented the Endangered Species Act, a law that the elite environmental lobbyists invoke at every turn to strike fear in the hearts of the American people that public land use for timber harvesting, oil and gas development, livestock grazing, and mining is causing irreversible and intolerable damage to threatened and endangered species and their habitat and that such use of the public domain should be eliminated altogether.

Finally, Mr. President, the Clinton administration kept the decision concerning the national monument cloaked in secrecy until it was sprung on the citizens of Utah by surprise. There was no consultation with the Governor, no consultation with the congressional delegation, no outreach effort to the citizens, no interactive process with the public land users, and no consideration of any of the benefits of the lands that have now been taken out of productive multiple use.

The President didn't want the democratic process, or the hearing process to go forward. It would have gone into the 105th Congress. We would have resolved it.

I dare say, President Clinton's action is probably the most arrogant, hypocritical, and blatantly political exercise of Federal power affecting public lands ever, and the media seems to have bought it. President Clinton's and Interior Secretary Bruce Babbitt's war on the West, in this unprecedented action, has almost the feel of Pearl Harbor. The President chose the most politically expedient and least publicly interactive route possible. The fact that he announced his decision, as I stated, in Arizona speaks for itself.

My bill and that of my colleagues would bring an end to the use of this old law to abuse Federal power and trample on States' rights. It is not needed anymore. We have the democratic process, we have NEPA, we have the Endangered Species Act, and we have the checks and balances so that a Presidential land grab is not in order.

Our bill is very straightforward. It provides that no extension or establishment of a national monument can be undertaken pursuant to the Antiquities Act without full compliance with NEPA, full compliance with the Endangered Species Act and an expressed act of Congress. What is wrong with that? That is the process. That is the democratic way.

This bill, when passed, would mean that there will be a public process and a deliberate, thoughtful analysis of the environmental consequences of the proposed action. There will also be consultation under the Endangered Species Act among the affected agencies on the potential effects on threatened and endangered species and their habitat.

More important, Mr. President, by requiring an act of Congress before a monument can be extended or established, the American people, the affected citizenry of the State involved, and interested public land users will have an opportunity to voice their opinions during the process.

This can occur during the NEPA process, during the endangered species consultation process and during legislative consideration of the act to extend or establish a national monument. No secret decision by the President's handlers and spin doctors and no campaign ploys, such as we have seen with the Utah monument.

President Clinton's action in Utah ignored public sentiment. It ignored the wishes of the citizens of Utah, of the public land users, of those who hold valid existing property rights and those who care deeply—deeply—about environmental stewardship. As our committee process continued, had it been allowed to continue, areas would have been identified and put into wilderness that were agreed upon by the State of Utah, the Governor, the legislature and the congressional delegation.

My bill would restore the public's voice in these matters and give meaning to the concept of public participation.

Mr. President, I urge my colleagues to join me in supporting this bill. I ask unanimous consent that the RECORD be left open until the end of the session to allow additional sponsors to join me on this measure.

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

Mr. CRAIG. Mr. President, I rise today in support of a bill being introduced that has been forced by recent events. I'm talking about President Clinton's proclamation unilaterally declaring nearly two million acres of southern Utah a National Monument.

After the President's announcement, Senator KEMPTHORNE and I introduced the Idaho Protection Act. The bill would require that the public and the Congress be included before a National Monument could be established in Idaho.

When we introduced that bill, I was immediately approached by other Senators seeking the same protection. What we see unfolding before us in Utah ought to frighten all of us. Without including Utah's Governor, Senators, congressional delegation, the state legislature, county commissioners, or the people of Utah—President Clinton set off limits forever approximately 1.7 million acres of Utah.

Under the 1906 Antiquities Act, President Clinton has the authority to create a National Monument where none existed before. And if he can do it in the State of Utah, he can do it in Idaho, or Montana, or California. In fact, since 1906, the law has been used some 66 times to set lands aside.

Just as 64 percent of the land in Utah is owned by the Federal Government, 62 percent of Idaho is also owned by Uncle Sam. Even New Hampshire, on the East Coast, has 14 percent of its land owned by the Federal Government. What the President has done in Utah, without public input, he could also do in Idaho or any of the States where the Federal Government has a presence.

The bill that is being introduced would simply require that the public and the Congress be fully involved and give approval before such a unilateral administrative act could take effect on our public lands.

Unfortunately, for the people of Utah, what the President has done there, should be a wake up call to people across America. While we all want to preserve what is best in our States, people everywhere understand that much of their economic future is tied up in what happens on the public lands in our States.

In the West, where public lands dominate the landscape, issues such as grazing, timber harvesting, water use, have all come under attack by an administration seemingly bent upon kowtowing to a segment of our population that wants other uses off our public lands.

But in addition to those in the West, everyone wants the process to be open and inclusive. No one wants the President, acting alone, to unilaterally lock up enormous parts of any State. That is not what Idahoans, or Utah natives or others. We certainly don't work that way in the West. There is a recognition that with common sense, a balance can

be struck that allows jobs to grow and families to put down roots while at the same time protecting America's great natural resources.

In my view, the President's actions are beyond the pale and for that reason—to protect others from suffering a similar fate, I am cosponsoring this bill.

Thank you and I yield the floor.

By Mr. SIMPSON (by request):

S. 2151. A bill to provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices that are reducing employment levels, and for other purposes; to the Committee on Veterans' Affairs.

THE DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT REDUCTION ASSISTANCE ACT OF 1996

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2151, the "Department of Veterans Affairs Employment Reduction Assistance Act of 1996" relating to the Department of Veterans Affairs' authority to offer separation incentives to achieve reductions in employment levels. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated September 11, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

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

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department Of Veterans Affairs Employment Reduction Assistance Act of 1996."

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) "Department" means the Department of Veterans Affairs.

(2) "employee" means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) is employed by the Department of Veterans Affairs;

(B) is serving under an appointment without time limitation; and

(C) has been currently employed for a continuous period of at least 12 months; but does not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Federal Government;

(ii) an employee having a disability on the basis of which such employee is eligible for disability retirement under the applicable retirement system referred to in clause (i);

(iii) an employee who is in receipt of a specific notice of involuntary separation for misconduct or performance;

(iv) an employee who has accepted a final offer of a voluntary separation incentive payment, payable upon completion of an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111);

(v) an employee who previously has received any voluntary separation incentive payment by the Federal Government under this Act or any other authority and has not repaid such payment; or

(vi) an employee covered by statutory reemployment rights who is on transfer to another organization.

(3) "Secretary" means the Secretary of Veterans Affairs.

SEC. 3. DEPARTMENT PLANS; APPROVAL.

(a) If the Secretary determines that, in order to improve the efficiency of operations or to meet actual or anticipated levels of budgetary or staffing resources, the number of employees employed by the Department must be reduced, the Secretary may submit a plan to the Director of the Office of Management and Budget to pay voluntary separation incentives under this Act to employees of the Department who agree to separate from the Department by retirement or resignation. The plan shall specify the planned employment reductions and the manner in which such reductions will improve operating efficiency or meet actual or anticipated levels of budget or staffing resources. The plan shall include a proposed period of time for the payment of voluntary separation incentives by the Department and a proposed coverage for offers of incentives to Department employees, targeting positions in accordance with the Department's strategic alignment plan and downsizing initiatives. The proposed coverage may be based on—

(1) any component of the Department;

(2) any occupation, occupation level or type of position;

(3) any geographic location; or

(4) any appropriate combination of the factors in paragraphs (1), (2), and (3).

(b) The Director of the Office of Management and Budget shall approve or disapprove each plan submitted under subsection (a), and may make appropriate modifications to the plan with respect to the time period in which voluntary separation incentives may be paid or with respect to the coverage of incentives on the basis of the factors in subsection (a) (1) through (4).

SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) In order to receive a voluntary separation incentive payment, an employee must separate from service with the Department voluntarily (whether by retirement or resignation) during the period of time for which the payment of incentives has been authorized for the employee under the Department plan under section 3.

(b) A voluntary separation incentive payment—

(1) shall be paid in a lump sum at the time of the employee's separation:

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code (without adjustment for any previous payment made under that section), if the employee were entitled to payment under that section; if the employee were entitled to payment under that action; or

(B) if the employee separates—

(i) during fiscal year 1996 or 1997, $25,000;

(ii) during fiscal year 1998, $20,000;

(iii) during fiscal year 1999, $15,000;

(iv) during fiscal year 2000, $10,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit, except that this paragraph shall not apply to unemployment compensation funded in whole or in part with Federal funds;

(4) shall not be taken into account in determining the amount of severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(5) shall be paid from the appropriations or funds available for payment of the basic pay of the employee.

SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.

(a) An individual who has received a voluntary separation incentive payment under this Act and accepts any employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Department.

(b)(1) If the employment under subsection (a) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(2) If the employment under subsection (a) is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under subsection (a) is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(c) For the purpose of this section, the term "employment"—

(1) includes employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(2) includes employment under a personal services contract, as defined by the Director of the Office of Personnel Management.

SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.

(a) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department shall

remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Department who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this Act.

(b) For the purpose of this section, the term "final basic pay", with respect to an employee, means the total amount of basic pay that would be payable for a year of service by that employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEVELS.

(a) Total full-time equivalent employment in the Department shall be reduced by one for each separation of an employee who receives a voluntary separation incentive payment under this Act. The reduction will be calculated by comparing the Department's full-time equivalent employment for the fiscal year in which the voluntary separation payments are made with the actual full-time equivalent employment for the prior fiscal year.

(b) The Office of Management and Budget shall monitor the Department and take any action necessary to ensure that the requirements of this section are met.

(c) Subsection (a) of this section may be waived upon a determination by the President that—

(1) the existence of a state of war or other national emergency so requires; or

(2) the existence of an extraordinary emergency which threatens life, health, safety, property, or the environment so requires.

SEC. 8. REPORTS.

(a) The Department, for each applicable quarter of each fiscal year and not later than 30 days after the date of such quarter, shall submit to the Office of Personnel Management a report stating—

(1) the number of employees who receive voluntary separation incentives for each type of separation involved;

(2) the average amount of the incentives paid;

(3) the average grade or pay level of the employees who received incentives; and

(4) such other information as the Office may require.

(b) No later than March 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

(1) the number of employees who received voluntary separation incentives;

(2) the average amount of such incentives;

(3) the average grade or pay level of the employees who received incentives; and

(4) the number of waivers made under section 5 of this Act in the repayment of voluntary separation incentives, and for each such waiver—

(A) the reasons for the waiver; and

(B) the title and grade or pay level of the position filled by each employee to whom the waiver applied.

SEC. 9. VOLUNTARY PARTICIPATION IN REDUCTIONS IN FORCE.

Section 3502(f) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ", the Secretary of Veterans Affairs," after "Defense";

(2) in paragraph (3), by inserting ", the Department of Veterans Affairs," after "Defense";

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4); and

(5) by amending such paragraph (4), as so redesignated, by striking "1996" and inserting "2000" in lieu thereof.

SEC. 10. CONTINUED HEALTH INSURANCE COVERAGE.

Section 8905a(d)(4) of title 5, United States Code, is amended—

(1) in subparagraph (A) by striking "in or under the Department of Defense";

(2) in subparagraph (B)—

(A) by striking "1999" in clause (i) and (ii) and inserting "2000"; and

(B) by striking "2000" in clause (ii) and inserting "2001"; and

(3) in subparagraph (C) by inserting "by the agency" after "identified".

SEC. 11. REGULATIONS.

The Director of the Office of Personnel Management may prescribe any regulations necessary to administer the provisions of this Act.

SEC. 12. LIMITATION; SAVINGS CLAUSE.

(a) No voluntary separation incentive under this Act may be paid based on the separation of an employee after September 30, 2000;

(b) This Act supplements and does not supersede other authority of the Secretary of Veterans Affairs.

ANALYSIS OF DRAFT BILL

The first section provides a title for the bill, the "Department of Veterans Affairs Employment Reduction Assistance Act of 1996."

Section 2 provide definitions of "Department", "employee", and "Secretary." Among the provisions, an employee who has received any previous voluntary separation incentive from the Federal Government and has not repaid the incentive is excluded from any incentives under this Act.

Section 3 provides that, when the VA Secretary determines that employment in the agency must be reduced in order to improve operating efficiency or meet anticipated budget or staffing levels, the Secretary may submit a plan to the Director of the Office of Management and Budget for payment of voluntary separation incentives to Department employees. The plan must specify the manner in which the planned employment reductions will improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of separation incentives, and a proposed coverage for offers of incentives to Department employees, targeting positions in accordance with VA's strategic alignment plan. Coverage may be on the basis of any component of the Department, any occupation or levels of an occupation, any geographic location, or any appropriate combination of these factors. The Director of the Office of Management and Budget shall approve or disapprove each plan submitted, and may modify the plan with respect to the time period for incentives or the coverage of incentive offers.

Section 4 provides that in order to receive a voluntary separation incentive, an employee covered by an offer of incentives must separate from service with the agency (whether by retirement or resignation) within the time period specified in the agency's plan as approved. For an employee who separates, the voluntary separation incentive is an amount equal to the lesser of the amount that the employee's severance pay would be if the employee were entitled to severance pay under section 5595 of title 5, United States Code (without adjustment for any previous severance pay), or whichever of the following amounts is applicable based on the date of separation: $25,000 during fiscal year 1996 or 1997; $20,000 during fiscal year 1998; $15,000 during fiscal year 1999; or $10,000 during fiscal year 2000. These reductions in incentive amount for each year an employee delays separation would encourage eligible employees to take the incentive at an earlier point.

Section 5 provides that any employee who receives a voluntary separation incentive under this Act and then accepts any employment with the Government within 5 years after separating must, prior to the first day of such employment, repay the entire amount of the incentive to the agency that paid the incentive. If the subsequent employment is with the Executive branch, including the United States Postal Service, the Director of the Office of Personnel Management may waive the repayment at the request of the agency head if the individual possesses unique abilities and is the only qualified applicant available for the position. For subsequent employment in the legislative branch, the head of the entity or the appointing official may waive repayment on the same basis. If the subsequent employment is in the judicial branch, the Director of the Administrative Office of the United States Courts may waive repayment on the same criteria. For the purpose of the repayment and waiver provisions, employment includes employment under a personal services contract, as defined by the Director of the Office of Personnel Management.

Section 6 requires additional agency contributions to the Civil Service Retirement and Disability Fund in amounts equal to 15 percent of the final basic pay of each employee of the Department who is covered by the Civil Service Retirement System to whom a voluntary separation incentive is paid under this Act.

Section 7 provides that full-time equivalent employment (FTEE) in the Department will be reduced by one for each separation of an employee who receives a voluntary separation incentive under this Act, and directs the Office of Management and Budget to take any action necessary to ensure compliance. Reductions will be calculated by using the Department's actual FTEE levels. For example, if the Department's FTEE usage in FY 1996 is 1,050 FTEEs, and 50 FTEEs separate during FY 1997 using voluntary separation incentive payments provided under this Act, then the Department's staffing levels at the end of FY 1997 shall not exceed 1,000 FTEEs. The President may waive the reduction in FTEE in the event of war or emergency.

Section 8 requires the Department to report to the Office of Personnel Management (OPM) on a quarterly basis: the number of employees receiving incentive payments for each type of separation; the average amount of incentive payments; the average grade or pay of employees receiving incentive payments; and other information OPM may require. This section also requires the Office of Personnel Management to report by March 31st of each year to the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight concerning the Department's use of voluntary separation incentives in the previous fiscal year. The report must show the number of employees who received incentives, the average amount of the incentives, and

the average grade or pay level of the employees who received incentives. The report must also include the number of waivers made under the provisions of section 5 in the repayment of incentives upon subsequent employment with the Government, the reasons for each waiver, and the title and grade or pay level of each employee to whom the waiver applied.

Section 9 amends section 3502(f) of title 5 to authorize the Secretary to allow an employee to volunteer for separation in a reduction-in-force when this will result in retaining an employee in a similar position who would otherwise be released in the reduction-in-force. Section 9 also changes section 3502(f)'s sunset date from 1996 to 2000.

Section 10 amends section 8905a(d)(4) to provide that employees who are involuntarily separated in a reduction in force, or who voluntarily separate from a surplus position that has been specifically identified for elimination in the reduction in force, can continue health benefits coverage for 18 months and be required to pay only the employee's share of the premium. Section 10 also extends section 8905a(d)(4) sunset provisions.

Section 11 provides that the Director of OPM may prescribe any regulations necessary to administer the provisions of the Act.

Section 12 provides that no voluntary separation incentive under the Act may be paid based on the separation of an employee after September 30, 2000, and that the Act supplements and does not supersede other authority of the Secretary.

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, September 11, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: We are submitting a draft bill "Department of Veterans Affairs Employment Reduction Assistance Act of 1996." We request that it be referred to the appropriate committee for prompt consideration and enactment.

In the next several years, VA will undergo dramatic change. VA believes that separation incentives can be an appropriate tool for those VA components that are redesigning their employment mix when the use of incentives is property related to the specific changes that are needed within those components and thus will reshape the agency for the future. They can also be an invaluable tool for components that are restructuring and reengineering, such as the Veterans Health Administration and the Veterans Benefits Administration, as they move towards primary care and new methods of delivering services to veterans. Further, it is vital to provide for consistent administration of any incentive programs that prove necessary for different components, and to appropriately limit the time period for any incentive offers.

This initiative is based on VA's experience with voluntary separation incentives under the Federal Workforce Restructuring Act of 1994. The Restructuring Act provided Federal civilian agencies, including VA, with authority to offer voluntary separation incentives for a 1-year period that ended March 31, 1995. VA generally used these incentives successfully to help avoid involuntary separations and to achieve reductions in administrative overhead and supervisory positions, and the Restructuring Act provided a useful framework for consistent administration of incentive programs in many different VA components.

This proposal would provide an overall system for the limited use of voluntary separation incentives by VA. When the Secretary determines that employment in particular organizations must be reduced in order to meet restructuring goals, the Secretary may submit a plan to the Director of the Office of Management and Budget for payment of voluntary separation incentives to Department employees. The plan must specify how the planned employment reductions will improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of incentives, and a proposed coverage for offers of incentives to agency employees on the needed organizational, occupational, or geographic basis, targeting positions in accordance with VA's strategic alignment plan. The Director of the Office of Management and Budget would approve or disapprove each plan submitted, and would have authority to modify the time period for incentives or coverage of incentive offers. We believe that these provisions for plan approval will ensure that separation incentives are appropriately targeted within the Department in view of the specific cuts that are needed, and are offered on a timely basis. Although the Department's full-time equivalent employment would be reduced by one for each employee of the Department who receives an incentive, we believe that service to veterans will improve as a result of the reengineering that is happening simultaneously within the system.

The authority for separation incentives would be in effect for the period starting with the enactment of this Act and ending September 30, 2000. The amount of an employee's incentive would be the lesser of the amount that the employee's severance pay would be, or whichever of the following amounts is applicable based on the year of separation in accordance with the agency plan; for employees who retire, $25,000 during fiscal year 1996 or 1997, $20,000 during fiscal year 1998, $15,000 during fiscal year 1999, and $10,000 during fiscal year 2000.

These reductions in the incentive amount for each year an employee delays separation would encourage employees to take the incentives during the first year of eligibility. An employee who receives an incentive and then accepts any employment with the Government within 5 years after separating must, prior to the first day of employment, repay the entire amount of the entire amount of the incentive. The repayment requirement could be waived only under very stringent circumstances of agency need.

In order to further assist VA components in making needed changes, the bill would authorize VA, under appropriate conditions, to allow an employee to volunteer for separation in a reduction-in-force when this will prevent the involuntary separation of an employee in a similar position. In addition, in order to minimize the impact of reduction-in-force actions on employees, the bill provides that employees who are involuntarily separated in reductions-in-force can continue their health insurance coverage for 18 months while continuing to pay only the premium that would apply to a current employee.

This proposal would provide a very useful tool to assist in reorganizing VA and reengineering services provided to veterans, quickly, effectively, and humanely. We also believe that it is a tool that will allow significant cost savings. If the proposal is enacted, we will report, on an annual basis, cost savings associated with separation incentives as well as where such funds have been redirected to improve the provision of services to veterans.

By Mr. SIMPSON (by request):

S. 2152. A bill to amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida, and for other purposes; to the Committee on Veterans' Affairs.

THE AGENT ORANGE BENEFITS ACT OF 1996

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2152, a bill to provide benefits for certain children of Vietnam veterans who are born with spina bifida. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated July 25, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter of the draft legislation.

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

S. 2152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SECTION 2. BENEFITS FOR THE CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA.

(a) SHORT TITLE.—This section may be cited as the "Agent Orange Benefits Act of 1996."

(b) Establishment of new chapter 18.—Part II is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—BENEFITS FOR THE CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA.

"Sec.
"1801. Purpose.
"1802. Definitions.
"1803. Health care.
"1804. Vocational training.
"1805. Monetary allowance.

"1801. Purpose

"The purpose of this chapter is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to

herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care, vocational training, and monetary benefits.

"1802. Definitions

"For the purposes of this chapter—

"(1) The term 'child' means a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

"(2) The term 'Vietnam veteran' means a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era.

"(3) The term 'spina bifida' means all forms of spina bifida other than spina bifida occulta.

"1803. Health care

"(a) In accordance with regulations the Secretary shall prescribe, the Secretary shall provide such health care under this chapter as the Secretary determines is needed to a child of a Vietnam veteran who is suffering from spina bifida, for any disability associated with such condition.

"(b) The Secretary may provide health care under this section directly or by contract or other arrangement with a health care provider.

"(c) For the purposes of this section—

"(1) The term 'health care' means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care, and includes the training of appropriate members of a child's family or household in the care of the child and provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care authorized under this section, and other materials as the Secretary determines to be necessary.

"(2) The term 'health care provider' includes, but is not limited to, specialized spina bifida clinics, health-care plans, insurers, organizations, institutions, or any other entity or individual who furnishes health care services that the Secretary determines are covered under this section.

"(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

"(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

"(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines are necessary to provide effective and economical preventive health care.

"(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent, the functioning of a disabled person.

"(9) the term 'respite care' means care furnished on an intermittent basis in a Department facility for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.".

"§ 1804. Vocational training

"(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

"(b)(1) If a child elects to pursue a program of vocational training under this section, the program shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

"(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of such vocationally oriented services and assistance, including such placement and postplacement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment.

"(B) A vocational training program under this subsection—

"(i) may not exceed 24 months unless, based on a determination by the Secretary that an extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the child, the Secretary grants an extension for a period not to exceed 24 months;

"(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment; and

"(iii) may include a program of education at an institution of higher learning only in a case in which the Secretary determines that the program involved is predominantly vocational in content.

"(c)(1) A child who is pursuing a program of vocational training under this section who is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive assistance.

"(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

"§ 1805. Monetary allowance

"(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for disability resulting from spina bifida suffered by such child.

"(b) The amount of the allowance paid under this section shall be based on the degree of disability suffered by a child as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe. The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based. The allowance shall be [$200] per month for the lowest level of disability prescribed, [$700] per month for * * *.

* * * * *

(B) by striking out", aggravation," both places it appears; and

(C) by striking out "sentence" and substituting in lieu thereof "subsection".

(b) The amendments made by subsection (a) shall govern all administrative and judicial determinations of eligibility for benefits under section 1511 of title 38, United States Code, made with respect to claims filed on or after the date of enactment of this Act, including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under section 1151 of that title or predecessor provisions of law.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 25, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida."

On March 14, 1996, the Institute of Medicine (IOM) of the National Academy of Sciences released a report which concluded that there is "limited/suggestive" evidence of an association between exposure to herbicides and spina bifida, a neural tube birth defect in which the bones of the spine fail to close over the spinal cord, often causing neurological impairment.[1] Based on this conclusion, and consistent with the spirit of the statutory standard governing decisions regarding presumptions of service connection for disabilities associated with exposure to herbicides during active military service in the Republic of Vietnam, as established by Public Law 102-4, I have determined that a positive association exists between exposure of a parent to herbicides during such service and the birth defect of spina bifida.

This determination was made based on a recommendation of a special task force I established to review the IOM report. The task force noted that certain studies of Vietnam veterans suggested an apparent increase in the risk for spina bifida in their offspring. These included studies conducted by the Centers for Disease Control and Prevention and, more recently, a study of offspring of Air Force Ranch Hand personnel. Although noting that scientific questions remain, the task force indicated that spina bifida does appear to meet the statutory standards set forth in Public Law 102-4.[2] The task force

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[1] That report, *Veterans and Agent Orange: Update 1996*, also concluded that "limited/suggestive" evidence of an association exists between exposure to herbicides and cancer of the prostate and acute/subacute peripheral neuropathy. Based on these conclusions, I have determined, under statutory guidelines set forth in section 1116(b)(3) of title 38, United States Code, that a "positive association" exists between such exposure and the two conditions. Pursuant to section 1116(b)(1), we intend to add such diseases to the list of diseases for which a presumption of service connection is established.

[2] The standard for determining whether a positive association exists with respect to herbicide exposure and diseases in Vietnam veterans is set forth in 38 U.S.C. §1116(b)(3), as added by Public Law 102-4, which states, "An association between the occurrence of a disease in humans and exposure to a herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence

noted that VA currently has no authority to establish presumptions of service connection for diseases in the offspring of veterans, but concluded that, if such authority existed, it would recommend, at this time, that spina bifida in the offspring of Vietnam veterans be treated in the same manner as prostate cancer and acute/subacute peripheral neuropathy. Because VA currently has no authority to provide benefits to these offspring, enabling legislation is necessary.

We recognize that the provisions of law that govern and, in some instances, mandate, the addition of new disabilities for which a presumption of service connection is provided do not govern the present situation. However, the level of association that we believe has been shown to exist is no less compelling for the conditions suffered by these children than for certain diseases in Vietnam veterans themselves for which the Government has assumed responsibility. It seems appropriate, therefore, and in the best interests of these children, that the same benefit of the doubt as is required to be given Vietnam veterans be given to their offspring, whose birth defects may be a result of their father's or mother's service to this country.

Historically, benefits for spouses and/or children have been derivative, that is, based on the death or disability of a veteran. The benefits proposed in this draft bill would represent the first instance in which VA would be authorized to provide benefits to a nonveteran based on a possible relationship between that individual's disability and a veteran's service. While this is unprecedented, we believe it to be an appropriate extension of the principle of providing benefits for disabilities that are incurred or aggravated as a result of an individual's service on active duty in the Armed Forces of the United States. When sound medical judgment indicates a course of action, as it appears to in this case, we believe that it is not only reasonable, but responsible, to propose the enactment of appropriate legislative remedies. We believe Congress, in enacting the standards for compensation found in Public Law 102–4, intended that the benefit of the doubt should be applied in making judgments regarding the consequences surrounding the use of herbicide agents and that benefits be provided to individuals who have suffered injury as a result thereof, a policy which should have equal force in terms of providing benefits to the offspring of such individuals.

The primary benefit proposed in the draft bill is associated comprehensive medical care, which could be provided directly by VA or by contract with non-VA providers. Second, because of the likelihood that individuals who suffer from spina bifida will encounter difficulties in pursuing vocational goals, we believe it is appropriate to assist them through the provision of vocational training benefits. Finally, in recognition of other, special financial needs these children are likely to have, we believe they should be provided with a monthly stipend to help defray additional expenses associated with their disabilities. The Secretary would be required to base the amount of the stipend, or allowance, on each child's level of disability, in accordance with a special schedule established for this purpose. Under the proposed framework, the Secretary would pay the allowance based upon three levels of disability, resulting in monthly levels of $200 per month for the lowest level of disability assigned, $700 per month for the intermediate level of disability assigned, and $1,200 per month for the highest level of disability assigned.

In addition, this proposal includes a provision to offset costs associated with these new benefits. This provision would effectively reverse the U.S. Supreme Court decision in *Gardner* v. *Brown* which held that monthly VA disability compensation must be paid for any additional disability or death attributable to VA medical treatment even if VA was not negligent in providing that care. A detailed explanation of the justification for this cost-saving measure appears in the testimony of VA's General Counsel before the Senate Committee on Veterans' Affairs on June 8, 1995.

This bill would affect direct spending and therefore is subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990. Enactment of this legislation would increase direct spending by $5.5 million in Fiscal Year 1997 and decrease direct spending by $291.5 million over a 5-year period.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.

for the association is equal to or outweighs the credible evidence against the association."

ADDITIONAL COSPONSORS

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1237

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1237, a bill to amend certain provisions of law relating to child pornography, and for other purposes.

S. 1628

At the request of Mr. BROWN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 1734

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1734, a bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.

S. 1925

At the request of Mr. GORTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 2030

At the request of Mr. LOTT, the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2057

At the request of Mr. THURMOND, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2057, a bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages.

S. 2104

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2104, a bill to amend chapter 71 of title 5, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes.

S. 2108

At the request of Mr. DORGAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2108, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 2123

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 2123, a bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the Highway Trust Fund made in correction of an accounting error made in fiscal year 1994, and for other purposes.

S. 2125

At the request of Mr. HELMS, his name was added as a cosponsor of S. 2125, a bill to provide a sentence of death for certain importations of significant quantities of controlled substances.

SENATE RESOLUTION 233

At the request of Ms. SNOWE, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 233, a resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

SENATE RESOLUTION 295

At the request of Mr. BIDEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 295, a resolution to designate October 18, 1996, as "National Mammography Day."

SENATE CONCURRENT RESOLUTION 72—RELATIVE TO PARDONS

Mr. SHELBY (for himself, Mr. BOND, Mr. GRAMS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. THURMOND, Mr. HELMS, and Mr. BENNETT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 72

Whereas it is incumbent upon the Congress to oppose any action that would have the effect of undermining the rule of law or the faith of the American people in our jury system;

Whereas on May 28, 1996, former business partners of the President were convicted of a total of 24 felony counts by a jury of 12 Arkansas residents;

Whereas Susan McDougal and Jim Guy Tucker have been sentenced for their crimes by a Federal district judge in Little Rock, Arkansas, and their codefendant James McDougal is awaiting sentencing by the same judge;

Whereas on September 4, 1996, Susan McDougal was held in contempt of court for refusing to answer questions before a Federal grand jury relating to (1) the knowledge of the President with respect to the fraudulent transactions for which she was convicted, and (2) the truthfulness of the testimony of the President at her trial;

Whereas in a televised interview broadcast on September 23, 1996, the President stated that any request for a Presidential pardon made by James or Susan McDougal or Jim Guy Tucker would be reviewed in the normal course, thereby leaving open the possibility that one or more pardons might indeed be issued at some later date;

Whereas any Presidential pardon of James or Susan McDougal or Jim Guy Tucker would seriously undermine the confidence of the American people in our criminal justice system, by essentially nullifying felony convictions of friends and associates of the President rendered by a jury of 12 Arkansas residents on charges initially brought by a grand jury comprised of 23 other Arkansans; and

Whereas the September 23, 1996, remarks by the President could be construed by his recently convicted friends and associates as offering them an inducement to refuse to testify honestly and openly about matters under investigation by Federal law enforcement authorities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring, That it is the sense of the Congress that the President should categorically disavow any intention of issuing a Presidential pardon to James or Susan McDougal or Jim Guy Tucker, and thereby affirm the principle that, in the system of justice in the United States, no person is above the law.

• Mr. SHELBY. Mr. President, I have been very disturbed by the recent press reports detailing the President's willingness to pardon Susan McDougal and possibly other former business partners and friends who have been convicted of defrauding the government.

The President's public willingness to suggest that a pardon may be forthcoming, at a time when Susan McDougal is facing contempt charges by a lawfully empaneled grand jury for not responding to questions about the role and truthfulness of the President himself, undermines our judicial system and seriously questions his ability to fulfill his obligation to see that "the laws be faithfully executed."

As you will recall, Mr. President, Susan McDougal was convicted on several felony counts of defrauding the government. She was tried and convicted by a jury of her peers in Little Rock, Arkansas and sentenced to 2 years in prison for her crimes.

While the President may not be pleased with the results of Independent Counsel Kenneth Starr's, investigation, including the conviction of many of his friends and former associates, it is outrageous for the President to now allege prosecutorial misconduct on behalf of Mr. Starr. At the request of Attorney General Reno, a three judge panel appointed an Independent Counsel, Kenneth Starr, to investigate fully any violation of Federal law relating in any way to James B. McDouglal's, President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

Mr. President, the President's recent statements raise serious questions about his intent to interfere with, and possibly undermine, the Independent Counsel's ongoing investigation into these matters.

Today, Senator BOND and I are submitting a concurrent resolution that would express the Sense of the Congress that the President should disavow any intent of issuing presidential pardons to James and Susan McDougal and Jim Guy Tucker and reaffirm one of the basic tenets of our American system of justice that no one is above the law.•

SENATE CONCURRENT RESOLUTION 73—RELATIVE TO PROPERTY CLAIMS

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized, and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic development, and many countries have begun the difficult and wrenching process of trying to right the past wrongs of previous totalitarian regimes;

Whereas restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation are arbitrary and discriminatory in violation of international law; and

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of plundered properties;

(2) urges countries which have not already done so to return plundered properties to their rightful owners or, as an alternative, pay compensation, in accordance with principles of justice and in a manner that is just, transparent, and fair;

(3) calls for the urgent return of property formerly belonging to Jewish communities as a means of redressing the particularly compelling problems of aging and destitute survivors of the Holocaust;

(4) calls on the Czech Republic, Latvia, Lithuania, Romania, Slovakia and any other country with restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation to remove such restrictions from their restitution or compensation laws;

(5) calls upon foreign financial institutions, and the states having legal authority over their operation, that possess wrongfully and illegally property confiscated from Holocaust victims, from residents of former Warsaw Pact states who were forbidden by Communist law from obtaining restitution of such property, and from states that were occupied by Nazi, Fascist, or Communist forces, to assist and to cooperate fully with efforts to restore this property to its rightful owners; and

(6) urges post-Communist countries to pass and effectively implement laws that provide for restitution of, or compensation for, plundered property.

• Mr. D'AMATO. Mr. President, I submit a concurrent resolution which addresses a number of distinct, but closely related, property issues. It follows up on work already done by the Helsinki Commission, which held a hearing on this subject on July 18, 1996. This same concurrent resolution is being submitted today in the House by the Commission's distinguished Chairman, my good friend and colleague from New Jersey, Congressman CHRIS SMITH. It is cosponsored by the majority of the Commission.

The substance of this concurrent resolution has been discussed with the Administration and parallels and supports the work being done by Under Secretary of Commerce for International Trade Stuart E. Eizenstat, who also serves as the U.S. Department of State Special Envoy for Property Claims in Central and Eastern Europe.

I strongly believe that there must be a full, complete and final accounting of the assets of Holocaust victims that have been wrongfully held by Swiss—and possibly other banks—for some five decades now. Those records must be opened, and the stolen assets returned to their rightful heirs. This concurrent resolution addresses that issue.

It also addresses the compelling situation of Holocaust survivors in Central and Eastern Europe. Many of these people, unlike their counterparts in Western Europe, were denied the chance to receive any compensation for their suffering or to receive the return of properties stolen by the Nazis when the iron curtain closed, leaving them at the mercy of new dictatorships. This concurrent resolution recognizes the urgent need for Jewish communal properties to be restored to their rightful owners, to help give these survivors the means to live out their final days in dignity.

Finally, this concurrent resolution speaks to the difficult and complex process underway in many post-Communist countries in Central and Eastern Europe and the former Soviet Union. Some countries have already taken steps to return property or provide compensation for property wrongly confiscated by Communist regimes. I commend those countries for their efforts.

At the same time, I am deeply troubled that some restitution or compensation laws have discriminated against American citizens, people who lost both their property and their citizenship when they sought refuge in this country, fleeing Communist persecution. To exclude these people from efforts to right past wrongs pours salt on an open wound. I urge my colleagues to join me in supporting this concurrent resolution, and in sending a message that these injustices must be remedied before the passage of time carries the victims beyond our mortal abilities to offer them some recompense for their suffering.

While restoration of property ownership or compensation for its wrongful confiscation can never right the terrible wrongs done to the victims by their Nazi, fascist, and communist oppressors, it can go some way toward balancing the scales. That is what this concurrent resolution is about and why it deserves our support.•

AMENDMENTS SUBMITTED

THE FEDERAL POWER ACT AMENDMENTS OF 1996

MURKOWSKI AMENDMENT NO. 5412

Mr. NICKLES (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 737) to extend the deadlines applicable to certain hydroelectric projects, and for other purposes; as follows:

Beginning of page 2 line 1 through page 6 line 6, strike section 2, 3, 4, 5 and 6, and renumber subsequent section accordingly.

On page 9, following line 17, add the following new section

"SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.

"(A) PROJECT NUMBER 3943.—

"(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

"(2) An extension may be granted under paragraph (1) only in accordance with—

"(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

"(B) the procedures of the Federal Energy Regulatory Commission under such section.

"(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

"(b) PROJECT NUMBER 3944.—

"(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

"(2) An extension may be granted under paragraph (1) only in accordance with-

"(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

"(B) the procedures of the Commission under such section.

"(3) This subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

"SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA

"Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

"(a) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

"(b) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other federal agency may assess, not to exceed a total of $20,000 for any year.".

ADDITIONAL STATEMENTS

INNOVATIVE CONTRACTING FOR TECHNOLOGY AT THE NATIONAL INSTITUTES OF HEALTH

• Mr. COHEN. Mr. President, this morning I rise to commend the National Institutes of Health and its leadership for changing the way the Government buys technology.

Earlier this year, the Information Technology Management Reform Act, which I authored, became law. ITMRA fundamentally changes the rules governing how the Government purchases and uses technology. It eliminated overly bureaucratic and cumbersome procedures that resulted in the Government's failure to get what it needed and frustrated vendors who were unable to provide government with the optimum solution. ITMRA sets the stage for Federal agencies to emulate successful organizations and break up large computer projects into smaller more manageable segments—a strategy that up to now had been hindered by a procurement system that encourages large complex contracts.

Despite passage of this major reform, the Government must also overcome a culture that arose from the antiquated

and cumbersome way of doing business. While the full impact of this reform may take a little time to be felt, some agencies have seized the opportunity to become leaders in innovation consistent with the spirit and intent of the legislation. While I have witnessed recent innovations within the Department of Defense, General Services Administration and a number of other agencies, one effort stands out as exemplifying the spirit behind ITMRA and is particularly well developed based on the intent behind ITMRA.

The chief information officers solutions and partners contract at the National Institutes of Health is an excellent example of how government, under ITMRA, will be able to meet its technology needs in a reasonable time frame and obtain optimum solutions. By comprehending the possibilities presented by recently enacted procurement reform, NIH has provided a contracting vehicle that will allow Federal agencies to buy goods and services in a manner that is competitive, easy to use, fair and timely.

Although the ultimate success of this program will depend on NIH's ability to properly administer the task orders it receives, the innovation demonstrated in the early phases of this procurement deserves special mention. In particular, the leadership and hard work of two NIH employees, Manny DeVera and Gale Greenwald, deserve special attention.

Both Mr. DeVera and Ms. Greenwald quickly recognized the potential of ITMRA and procurement reform, allowing them to award a flexible contract in record time. Both the Government customers and the vendor community are quite excited about the prospects for obtaining needed services in a timely and efficient manner. Government clients will be able to obtain the technology, services, and solutions they need under ITMRA via competitive task orders. Agencies will not have to bundle their requirements into large contracts that take years to award and often end in protest and litigation. Under the new law, an agency can look to the growing number of multiple award task order contracts or the GSA schedule to fulfill information technology requirements. Agency chief information officers can then focus on the return on investment from information technology rather than on finding ways to overcome obstacles in the Federal procurement system.

Mr. President, while this contract must still prove itself, this effort represents a milestone in innovation. The two Federal employees most responsible for this innovation, Manny DeVera and Gale Greenwald, deserve our thanks and appreciation.•

HIGHWAY FUNDING FAIRNESS ACT OF 1996

• Mr. BIDEN. Mr. President, today I proudly join with the distinguished ranking member of the Environment and Public Works Committee, Senator BAUCUS, to correct a serious accounting error that will cost my home State of Delaware millions of dollars in badly needed Federal highway assistance.

Federal-aid highway funds are for the creation and maintenance of our Nation's interstate highways—literally the lifelines of our economy. The east coast's largest, most important interstate, I-95, runs through the northernmost part of Delaware, carrying hundreds of millions of tons of goods and products from Maine to Florida and beyond. Tens of thousands of Delawareans commute daily on I-95.

In fact, the Delaware Department of Transportation is just now beginning a massive, $73 million project to repave and resurface key parts of I-95. This undertaking is vitally important not only to the people of Delaware, but to commuters and businesses across America.

Yet, next fiscal year, Delaware—partly because of a 1994 bureaucratic snafu—is going to receive approximately $8.2 million less than it received in 1996. That is an 11-percent cut.

This will occur even though the Federal Government will spend a record $18 billion on Federal highway assistance—roughly $455 million more than the current year.

During consideration of the Transportation Appropriations bill this past July, Senator BAUCUS successfully offered an amendment that I supported to correct this miscalculation and restore the needed funding. Yet despite the strong vote in support, and the best efforts of Senator LAUTENBERG, conferees dropped the Baucus amendment, thus preserving the slip-up and cutting funding to 28 States.

Because of this fundamental unfairness, and the egregious, short-sighted cuts in Amtrak funding, I voted against the Transportation Appropriations conference report.

The legislation introduced by Senator BAUCUS that I am cosponsoring today, the Highway Funding Fairness Act of 1996, corrects the 1994 highway fund credit mistake and gives the 28 affected States their rightful allocations.

This 1994 accounting error skims the surface of the issue, however. The root cause of the $8 million cut in funding to Delaware is the skewed allocation formula put in place by the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA], which fails to accurately reflect highway needs. This formula, particularly the so-called 90 percent of payments guarantee, unfairly rewards selected States at the expense of smaller, less populated States, such as Delaware.

I intend to work hard next year during consideration of the ISTEA reauthorization bill to correct this fundamental unfairness, and ensure that States, like Delaware, receive their proper share of highway funds.

I hope my colleagues representing the other 27 affected States will seriously consider cosponsoring the Highway Funding Fairness Act of 1996, and I commend and thank Senator BAUCUS for all of his work.•

JOE MARK ELKOURI

• Mr. INHOFE. Mr. President, I rise today to honor a great American and a great Oklahoman, Joe Mark Elkouri, who passed from this earth September 26, 1996. Joe Mark was born February 28, 1950, in Altus, OK, and was a respected long-time resident of Oklahoma City.

An alumnus of Oklahoma State University, the Oklahoma City University School of Law, and Southern Methodist University Law School, where he specialized in tax law, Joe Mark utilized his education to the betterment of society.

Joe Mark tirelessly involved himself in civic causes such as the Red Andrews Christmas Dinner, Toys for Tots, the Aids Support Program, and the Winds House, an assisted living center in Oklahoma City. Throughout his life, Joe Mark gave of himself for the benefit of countless others, endearing friends and loved ones for life.

He is survived by two loving daughters, Brie and Lee Elkouri of Oklahoma City; two sisters, KoKo Sparks and family of Oklahoma City, and Sharon Massad of California; his mother Dorothy Weinstein of Dallas, TX, and Jim Roth of the home.

Joe Mark served his community as a distinguished member of the State bar of Oklahoma and served as an Administrative Law Judge for numerous State agencies and as a Special Judge for the city of Oklahoma City. Joe Mark's professional accomplishments are many, but he will be remembered most for his tremendous good will, enormous heart, and joyful sense of humor. He will be greatly missed by all who knew him and loved him. May He Rest In Peace.•

TRIBUTE TO ARMY COL. BARBARA SCHERB

• Mr. INOUYE. Mr. President, as the 104th Congress draws to a close, I stand to pay tribute to a distinguished Army officer who served as a congressional science fellow on my staff during this Congress. Col. Barbara Scherb, U.S. Army, was selected for this highly coveted fellowship as a result of her outstanding training, experience, and accomplishments. She is the prototype of what nursing leadership should be. Her impeccable credentials and superb performance earned her the respect and

admiration of the Senate staff. She distinguished herself rapidly as a professional who possessed an infectious demeanor, tremendous integrity, decisive leadership style, political savvy, and unending energy. The ultimate Army officer, Colonel Scherb is a visionary thinker who has the innate ability to implement these visions. Colonel Scherb is the consummate professional; nursing never had a better ambassador nor patients a more devoted advocate.

Colonel Scherb forged strong alliances and affiliations with a myriad of congressional offices, committees, and Federal and civilian agencies to present a cohesive approach to legislative proposals. She worked closely with staff members on the Senate Armed Services and Labor and Human Resources Committees and Defense and Labor, Health and Human Services and Education Appropriations Subcommittees in support of military health issues and national nursing and health care agendas.

As a champion of tri-service nursing and military health issues, Colonel Scherb was instrumental in the clarification of the board certification pay statutes to include certain military nurse specialists; establishment of equitable disbursement of incentive special pay for nurse anesthetists; authorization to establish a graduate school of nursing at the Uniformed Services University of the Health Sciences [USUHS]; and authorization to establish a tri-service nursing research program at USUHS.

Her dynamic leadership provided the driving force behind legislation that enabled any qualified officer in the military health system to be appointed as Surgeon General, and promoted the development of leadership opportunities for nurses and other nonphysicians to include command and general officer promotion. Colonel Scherb wrote legislative language enabling the Services to distribute their field grade end-strength equitably ushering in a new era of equality for military medicine. Colonel Scherb actively pursued codification of Army and Air Force chief nurse appointments as general officers. She championed telemedicine initiatives including advanced medical technologies, digitized radiography, computerized patient records, teleconsultation, and remote distance learning.

As a recognized authority on health care, Colonel Scherb's expertise was in constant demand as a speaker and writer. At significant personal sacrifice, she eagerly sought each and every opportunity to advance nursing, and the health care goals and vision of America.

Colonel Scherb is now attending the Army War College. Based on her splendid performance and exceptional leadership while in my office, I am confident that she will excel in this new endeavor.

Colonel Scherb is an officer of whom the military and our Nation can and should be justifiably proud; a unique combination of talent and devotion to duty. I want to personally and publicly acknowledge my sincere appreciation to Colonel Scherb for her dedicated months of exemplary service and to bid her a fond aloha and heartfelt mahalo.•

CONGRATULATING REPUBLIC OF CHINA'S CONGRESSIONAL LIAISON

• Mr. MURKOWSKI. Mr. President, many Senators have come to the floor this week to give tribute to our retiring colleagues as the 104th Congress moves toward adjournment. The end of the congressional session also means that many of our friends in the diplomatic community are moving on to other assignments.

I rise today to say farewell and to congratulate Dr. Lyushun Shen, who has served as head of the Republic of China's Congressional Liaison Division in Washington for many years. In recognition of his good work here, Dr. Shen has been named Director of North American Affairs in the the Ministry of Foreign Affairs and will return to Taipei at the end of this month. This is an extremely important position because he will be responsible for coordinating Taiwan's policies toward the United States, among other things. I am pleased the United States will have a good friend in that position.

My staff and I have had many occasions to work with Lyushun during his tenure in Washington. Whether the issue was one where we disagreed, such as back in the days of fishing disputes between Taiwan and Alaska, or where we agreed, such as allowing a private visit by President Lee to his alma mater, Lyushun has served his country with diligence, professionalism, and a fine sense of humor—an important quality in this town. I also had the chance to observe his fishing skills when he attended my wife's charity fishing tournament this past summer, but I think he should stick with diplomacy.

I am confident that Lyushun will be as successful in his new role as he has been here. And I know our paths will cross again during my travels to Asia. I am certain that my colleagues join me in wishing Lyushun and his family all the best in the coming years.•

AD HOC HEARING ON TOBACCO

• Mr. LAUTENBERG. Mr. President, on September 11, I cochaired with Senator KENNEDY an ad hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN, and SIMON. Regrettably, we were forced to hold an ad-hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

Yesterday I entered into the RECORD the testimony of the witnesses from the second panel. Today I am entering the testimony of the witnesses from the third panel which included talk-show host Morton Downey, Jr.; his doctor, Dr. Martin Gordon; former Marlboro man, Alan Landers; and, former cigarette model Janet Sackman.

Mr. President, I ask that the testimony and related materials from the third panel of this ad hoc hearing be printed in the RECORD.

The material follows:

TESTIMONY AT THE AD-HOC TOBACCO HEARING, U.S. SENATE, SEPTEMBER 11, 1996

STATEMENT OF MORTON DOWNEY, JR.

Mr. Chairman, distinguished Senators, Dr. Martin Gordon, Fellow members of the American Lung Association, Ladies and Gentleman, I wish I did not belong on this panel of people who have learned first hand the connection between smoking and cancer. Sadly this former smoking fool heads the list.

Like 3,000 kids every day, I began smoking at the age of about 13. My parents had sent me to military school. All my buddies smoked, it was cool. By Christmas vacation I was hooked. Banging down about 20 butts a day. I knew they couldn't hurt me, because the full-page advertising Life magazine and the Policeman's Gazette said, "More Doctors Smoke Camels Than Any Other Cigarette." Think of how hooked I was. It was military boarding school, every time I got caught smoking it was ten demerits, which meant ten hours of marching with a rifle on my shoulder after class and on weekends. In my first year, I marched over 300 hours of punishment for smoking. My dad said that showed how stupid I was to smoke. Billy Waldon, my roommate, said it showed how stupid I was to get caught. I agreed, kept smoking and kept being stupid. Bill Waldon, my ex-roommate, died when he was 53. He had given up smoking at 40 and started chewing tobacco so as not to get lung cancer. He died ten years of tongue and throat cancer—some trade off.

What kind of trade off are we giving our children, Mr. Chairman? An absolute guarantee that if we do not face our responsibility right now, at least 1,000 of those new daily smokers will die an agonizing death from a smoking-related illness.

To those who falsely gnash their teeth over First Amendment rights, what about the Preamble, those first thoughts our forefathers had about the right to Life, Liberty and the Pursuit of Happiness? Cancer will steal their life! Liberty should mean the right to be liberated from our own youthful stupidity.

Mr. Chairman, can I find happiness for my child when I know the adults who pretend to care for her, the Tobacco Lobbyists, the Government that is sworn to protect her, abandon their responsibility and bow to the cigarette giants, the Tobacco Terrorists?

She needs your courage, your leadership, your ability to stand-up in the face of those who would spend 5 billion a year to send our children to an early but agonizing death—but not spend one red cent toward the breaking of the smoking habit, money to purchase medication for the agonizing pain as death approaches, or dollars to develop a cure for their addicting gift to our children.

To think I was a role model for cigarette smoking youth, even signing my name on their cigarettes. To that generation, I beg

your forgiveness. May the next generation have kinder and wiser role models such as you Senators and President Bill Clinton who will not bow to the Tobacco Terrorists by weakening the regulations that only serves to deny our youth the opportunity to destroy themselves as many of us already have. I ask you to show the legislative courage to save my little girl. She need not suffer as I have, as my colleagues have. Think of some of my fellow smokers, Sammy Davis, Jr., Edward R. Murrow, Yul Brynner——

They smoked and they're dead. Wouldn't it be a better world if they were alive today?

STATEMENT OF MARTIN N. GORDON, M.D.

Good Morning.

My name is Dr. Martin N. Gordon. I am a physician specializing in pulmonary medicine at Cedars Sinai Medical Center and I am Morton Downey, Jr.'s pulmonologist. I am honored and pleased to address this committee and offer my views on tobacco smoke, lung cancer and the FDA regulations.

It is generally agreed by those in the scientific and medical communities that most lung cancer is attributable to the inhalation, by a susceptible host, of carcinogenic pollutants. Cigarette and other tobacco smoke are the most important of these pollutants. Members of the committee may be interested to know that the initial suspicion that tobacco might cause cancer was first voiced by the English physician, John Hill, in 1761! This was promptly followed by our Surgeon General's report in 1964.

Early in this century, physicians and scientists alike strongly suspected a relationship between smoking and lung cancer. Dr. I. Adler was the first to strongly suggest that lung cancer is related to smoking in a monograph published in 1912. A similar conclusion was reached in a 1941 article by Dr. Michael DeBakey, who cited a correlation between the increased sale of tobacco and the increasing prevalence of lung cancer. In addition, early investigators seemed to understand the correlation between the age when one first begins to smoke and lung cancer, finding that smokers with lung cancer began smoking earlier and continued to smoke longer than control groups.

Lung cancer is only the tip of the iceberg. Smoking has been causally related to an increased incidence of a number of other malignancies, and is a significant risk factor in the development of coronary artery disease. As Dr. Thomas Petty from Colorado states, "Today, no reasonable person would deny that smoking is the cause of 90% to 95% of lung cancer."

Lung cancer is the most fatal malignancy of both men and women. In the United States we will probably have close to 193,000 reported cases of lung cancer this year, 112,000 in men and 81,000 in women, with a 5 year mortality rate of 85%.

Building on Dr. Petty's statement, it would be safe to state that, sadly, 90% of lung cancers are preventable. Logically, preventing people from smoking would be the single most positive step towards reducing the incidence of lung cancer. Furthermore, since it is widely known that starting to smoke at an early age is a particularly strong risk factor in the development of lung cancer and almost 90% of daily smokers begin before the age of 18, it would make sense to focus our effort on preventing children from smoking. This is the goal of the FDA regulations—to protect children from tobacco's addictive properties and its deadly effects. As a physician who has seen the ravages of lung cancer, I fully support the timely enactment of the FDA regulations. I believe they will go a long way towards my seeing fewer patients like Morton Downey, Jr. walk through my door.

I urge those on the committee and other members of Congress to support the FDA regulations and oppose any legislative efforts to weaken them. Thank you for the opportunity to address this distinguished body. I would be happy to answer any questions.

STATEMENT OF ALAN LANDERS

My name is Alan Landers. I live in Ft. Lauderdale, Florida, and I am 55 years old. I am a professional actor, model, and acting teacher. My career began with the pilot film "Aloha from Hawaii". Over the years I appeared in various television shows and motion pictures, including "Annie Hall", "Stacey", "The Tree", "The Web", "Hurricane," "Ellery Queen", "The DuPont Show", "Deadly Rivals", "Cop and ½", "South Beach", "America's Most Wanted," "Superboy", "Model of the Year", "Petrocelli", "Kate McShane". I also appeared as a model and actor in numerous advertising campaigns, including: Binaca, United Airlines, Lancer Wine, Brylcreme, M.J.B. Coffee, BelAir Cigarettes (South America), Sony, and Vics 44.

I owned the Alan Landers Acting Studio in Hollywood, California. Some of the people who attended the Studio and were coached by me include: JoAnne Woodward, Jerry Hall, Ali McGraw, Joe Penny, George Lazinbee, Sara Purcell, Frankie Crocker, Lynn Moody, Lydia Cornell, Susan Blakely, Merite Van Kamp, Vinviano Vincenzoni, Shel Silverstein, and Joe Lewis. I have appeared in numerous television and motion picture productions, including "Annie Hall".

During the height of my acting and modeling career I was courted by R.J. Reynolds to appear as the "Winston Man". I did the majority of the print ads for the RJ Reynolds tobacco company in the late 1960's and early 1970's.

I appeared on billboards and in magazine advertising holding a Winston cigarette urging others, young and old, to smoke. I was expected to portray smoking as stylish, pleasurable, and attractive. I was required to smoke on the set, constant smoking was required to achieve the correct appearance of the cigarette, ash, and butt length. During this time frame I also promoted Tiparillo small cigars. In television advertisements, my character, dressed in a trenchcoat utters the rhetorical line, "should a gentleman offer a Tiparillo to a lady?"

Despite the fact that I worked closely with cigarette company personnel during the shooting, at no time was I ever told that cigarettes could be dangerous to my health. I knew that some people believed them to be unhealthful, but the cigarette manufacturers denied, and still deny to this date, that their product is harmful.

Later in this statement I explain what I have learned about the hazards of cigarette smoke, and when the cigarette industry realized these hazards. Looking back on my career I am ashamed that I helped promote such a lethal and addictive product to the children and adults of this country. Had I understood then what I now understand—that cigarettes are an addictive poison that kills almost 50% of their users—I would never have participated in their mass marketing.

In 1987 the hazard of cigarettes became tragically apparent as I was diagnosed with lung cancer. Although 95% of lung cancer victims do not survive five years from diagnosis, I was determined to beat the odds. In a painful and dangerous surgical procedure, my doctors removed a large section of lung, hopefully to remove the cancer from my body. After the surgery, I lived from examination to examination, hoping the cancer would not recur. In 1992 I received devastating news. Another cancer had formed, this time in my other lung. The only hope was more surgery, which was accomplished with major complications. A nerve leading to my vocal cords was cut, causing it to be almost impossible to speak normally. This is a crushing blow to an actor. I survived the second surgery and am hoping for the best, although there are no guarantees. I am extremely short winded because sections of both lungs have been removed, and I am told that I have in addition emphysema from cigarette smoking. Scars from the surgery wrap around my back permanently disfiguring me, but I feel lucky to be alive.

I have learned a great deal since the surgery for lung cancer, about the true dangers of cigarettes and the deceit of the industry that sold them. I never understood how lethal the product really is. Looking back, I recall smoking on the eve of my second surgery. I am a strong willed person who had broken the addiction several years earlier. The addictive power of nicotine addiction is real and that my frustration of being unable to quit is shared with many, if not most, regular smokers.

I have also became aware of the industry's deceitful attitude toward its customers. My attorney, Mr. Norwood S. Wilner of Jacksonville, has filed a case on my behalf seeking compensation from R.J. Reynolds and others. I was delighted to see that Mr. Wilner was successful in August of this year in obtaining a verdict on behalf of one of his other clients against the cigarette industry. The landmark case *Carter v. Brown and Williamson Tobacco Comapny*, tried in Jacksonville, showed that juries will not forgive the cigarette industry for its carelessness and deception in refusing to warn its customers or to develop safer alternative products.

I have donated my time to the fight against tobacco and to protect children from becoming involved in this dangerous drug. Lawton Chiles, Florida's courageous Governor, has asked me to address the Florida Legislature. I have appeared numerous times for the American Cancer Society, the Tobacco Free Coalition, Citizens Against Tobacco, the Duval County Public Schools ZIP program, the Monroe County (Key West) School System, the Cancer Survivors for Life. I have at my expense appeared on national and local television and radio shows.

I now understand, and wish to place into the record, some of the shocking facts that the Carter jury saw, which reveal how the industry put profits over people, stonewalled its critics, and concealed scientific evidence from the public and its customers. The attached article entitled "Mass Destruction: A Medical, Legal, and Ethical Indictment of the Cigarette Industry" authored by my attorney, Norwood S. Wilner, and my physician, Dr. Allan Feingold of South Miami Hospital, outlines my understanding of these terrible facts.

I call upon the lawmakers of this country to protect our children from this dangerous substance. Tobacco products should be regulated as the addictive drugs they are. Tobacco advertising should be eliminated or strictly curtailed. I call upon the tobacco industry to compensate its victims, its former customers, who are suffering and dying from its products. Thank you for permitting me to appear before this committee.

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
Tallahassee, FL, August 12, 1996.

Mr. ALAN LANDERS,
Lauderhill, FL.

DEAR ALAN: On behalf of the citizens of Florida, I wish to thank you. As a former model for cigarette manufacturers, your compelling testimony before the Florida Legislature of cigarettes' insidious poison, and the perverse marketing of this product to our youth is a true "profile in courage". Your personal message made the difference in our winning 1996 Legislative battle against Big Tobacco.

Your critical help, combined with the American Cancer Society, American Lung Society, and the American heart Association, permitted Floridians to beat back over sixty (60) high paid lobbyists and a million dollar media campaign designed to distort the truth. In biblical parlance, "we smote them with the jaw bone of an ass."

Alan, thank you again. We will need your help in the future, and I am glad that I can count on you.

Warmly yours,

LAWTON C. CHILES.

JANET SACKMAN

Janet Sackman was born on September 3, 1931 in New York City, New York. In 1946, at age 14, Mrs. Sackman began working as a photographer's model, and soon became the Lucky Strike cover girl. At the request of a tobacco executive, Mrs. Sackman learned to smoke at age 17. He advised her that she should learn to smoke in order to learn to hold a cigarette, and look more natural when being photographed.

In 1983, Mrs. Sackman was diagnosed with throat cancer, and underwent a laryngectomy. In 1990 late doctors found cancer in her right lung, and Mrs. Sackman had a portion of that lung removed.

After her illness Mrs. Sackman vowed to begin speaking out against smoking. She has made numerous appearances worldwide in order to educate the public regarding the health hazards of cigarette smoking.•

PUBLIC LANDS ENVIRONMENTAL PROTECTION ACT OF 1997

• Mr. CRAIG. Mr. President, this month marks the 20th anniversary of Congress' passage of the National Forest Management Act of 1976 [NFMA]. As many of you know, at the beginning of this Congress we embarked upon the first sustained oversight of the implementation of the NFMA, and the related statutes and regulations that govern the management of Federal forest lands—both those managed by the U.S. Forest Service, as well as by the Bureau of Land Management.

During the course of last year and this, our subcommittee held 15 hearings, receiving testimony from over 200 witnesses concerning the status of Federal forest management. We then participated in, and reviewed the results of, the Seventh American Forest Congress before finalizing our conclusions. These conclusions are summarized in a June 20, 1996 letter that I sent to Secretary of Agriculture, Dan Glickman. Since the transmittal of this letter and its subsequent circulation, we have received a number of letters, calls, and comments from various individuals both inside and outside the federal land management establishment. Generally, they have been: First telling us that we are accurate in our diagnosis of the problems associated with federal forest management; and second urging us to address some of the problems and opportunities described in the June 20 letter.

At the conclusion of our oversight hearings earlier this year we invited the administration to provide us with ideas about needed changes, basically making good on the commitment that Secretary Glickman made when he was confirmed by the Senate in March 1995. In the June 20 letter, we again offered to entertain the administration's proposals. On August 1 we received a response indicating that no proposals were ready to tender. We are distributing a copy of the letter and the Secretary's response to you.

Last week, I met with the Secretary to see whether the administration was close to offering a proposal of any sort. Not surprisingly, they are not—nor will they be anytime before a certain date in November that seems to figure heavily in all of their planning.

I also asked the Secretary whether he imagined that—if we were to introduce a legislative proposal before that magic date—we might have a thoughtful and substantive discussion detached from partisan wrangling and political recriminations? He thought not. What a surprise, but more the pity.

Without being overly critical, I think we have to question both the seriousness of the administration's approach to these issues, and the depth of the Secretary's commitment to constructively engage Congress on Federal forest management. But I want to emphasize that my mind and my door are still open. As we move forward, we would still be happy to see a legislative proposal from the administration to put alongside what we propose.

WE MUST CHOOSE A COHERENT PHILOSOPHY UNDER WHICH OUR FEDERAL FOREST LANDS SHOULD BE MANAGED

Today, I want to review the basic approach we took to our oversight task. In evaluating the need for change, we started by evaluating how well our current statutes are working. Then, having established that change is imperative, we stepped back and tried to evaluate the overall philosophy under which we want our Federal lands to be managed.

We chose to reaffirm the multiple-use mandate that has guided the management of Federal forest lands since the early part of this century. We have refused to accede to the no-use philosophy that is currently being popularized by elements of the national environmental community and, to some extent, agents of this administration.

We have chosen the former over the latter because any sentient being can see the results of the no-use philosophy on the land. Fires are burning out of control through forests that are inherently unhealthy because of stand conditions that have been allowed to deteriorate as a consequence of both simple administrative inaction, and a more basic and grievous confusion over the role of man in nature. The bill we will propose does not deal with the forest health issue alone. Rather, it will also deal with the health of the Forest Service and the other land managing agencies. It is our conclusion that the clear results of the implementation of no-use philosophies on the agencies have been as dramatic as the results of the application of similar philosophies on the land.

Consider this—in over 15 hearings with 200 witnesses—no one supported the status quo. Let me repeat, no one from any walk, profession, interest group, or point of view provided any testimony that suggested Congress need not act to fix the current situation. In sum, the health of the Forest Service—or, more broadly, our Federal Government—as an enlightened advocate of professional resource management has reached a critical point. In an era of tightening Government budgets this might be the case even if this administration was not subjecting the agencies to unprecedented political interference. But, in fact, the amount of political interference that the Forest Service and the Bureau of Land Management are facing is extraordinary.

Thus, as we summarize our general philosophy, we flatly reject the preservationist philosophy that the best thing we can do for our Federal forests is to walk away and leave them alone. Rather, we choose to: First, reaffirm and reinvigorate multiple-use management; second, restore the health of our forests and the morale of our professional forest managers; third, fashion forest policy on hope instead of fear; fourth, develop solutions instead of conflict; fifth, encourage education instead of litigation; sixth, rely upon science instead of stoking emotions; and seventh, employ human resources in environmental stewardship, instead of destroying them in the interest of environmental purism.

OUR APPROACH TO THIS PROCESS HAS NECESSARILY BEEN TIME CONSUMING

When we initiated this oversight process two Marches ago, I remarked upon the novelty of Congress wading into an area where it has been absent from the field for so many years. I also noted that, if our oversight uncovered the need for significant changes, these changes would take time. Indeed, legislative changes of this nature always take more than one Congress to achieve. When you write the environmental history of this Congress I hope you will remember that we expected it to take awhile, but we will get the job done.

I relish the opportunity to quote Senator Hubert Humphrey's remarks 20 years ago this week as he brought the conference report accompanying the 1976 National Forest Management Act to the Senate floor. He stated that:

It is with a tremendous amount of pride and satisfaction that I offer this measure for the consideration of the Senate. It is a product of 3 years of work by four committees of this Congress, as well as more than a dozen public interest groups and business interests.

These issues could not be viewed as the work of a single Congress or the result of an individual election, even then. They certainly cannot now. For those critical of Congress' efficiency, it is worth noting that the number of congressional committees has decreased, even as the panoply of interest groups has expanded exponentially.

Generally speaking, significant change comes only through crisis or consensus. I would submit that, today, we have a consensus that the status quo is unacceptable. But there is not yet a shared sense of crisis, nor any specific agreement on an appropriate solution. Therefore, our proposal will represent a starting point to see if we can: First, build upon the only established consensus—that is, the status quo is unacceptable; and second, move toward some agreement on what kinds of appropriate solutions should be provided.

By necessity, many parties will be involved in the deliberations that we will begin in a few weeks, and carry forward through the next Congress and perhaps beyond. But at the same time, many parties have already been involved in providing us useful insights that are reflected in the proposal we will circulate in the near future. Let me mention a few groups that have been involved and deserve recognition for the contributions made to date.

First, I want to recognize the thousands of people involved in the Seventh American Forest Congress. Their coming together was a truly unique experience. I directed my staff to attend, and they benefitted greatly from the insights provided. We delayed introduction of this measure to benefit from their deliberations. I hope to continue this extraordinary dialog with this other Congress.

Second, representatives of the environmental community have also been instrumental in providing both the backdrop for the discussions that have occurred in this Congress, as well as a number of specific suggestions for changes. While we do not agree with all they advocate, they nevertheless deserve the credit for elevating the public's interest in the state of our Federal forests.

Third, I want to recognize the forest scientists that have begun to look at land management and ecosystem analysis at broader geographic scales. Many of the initiatives that have been pioneered by this group of devoted Forest Service and other Federal agency scientists over the last 4 years are going to be recognized and provided with a statutory basis.

Fourth, I want to thank State and local officials who have provided considerable testimony about the current state of federalism, insofar as Federal resource management is concerned. They have suggested a number of improvements based upon their increasingly impressive capabilities to perform a number of the management functions that are currently entrusted solely to the diminishing number of Federal agency employees spread across the country.

Fifth, I want to thank representatives of local, dependent communities and industries. I want to commend their patience in seeing us through these deliberations, while in many cases—and for justifiable reasons—they felt their concerns are of a more immediate nature.

Finally and most importantly, I want to thank the Forest Service and other Federal agency employees who contributed so much to our oversight process both formally and informally. By elevating environmental considerations within the agency, Forest Service employees have made many of the changes that we will propose both reasonable and possible. There is less need now to use other Federal employees to police the work and commitment of Forest Service scientists, biologists, and land management professionals than there may once have been. For this, and for other efficiencies in better land stewardship that we will propose, Forest Service employees deserve considerable credit. I am also appreciative of the amount of time and effort that went into the development of agency testimony and support materials that provided the information necessary for our oversight and ongoing drafting processes. I deeply appreciate, the professionalism and commitment of these employees.

I do not expect any of the above mentioned groups to be wholly or very satisfied—or, in a few cases, even remotely satisfied—with the proposal that we will unveil shortly. Nevertheless, all of their views were heard and in many ways reflected, even if not exactly the way they thought they would be.

Now having reviewed the process that we used to develop the legislation, let me explain how we will proceed. Prior to meeting with the Secretary last week, I was prepared to introduce this measure immediately and start the process of discussing these ideas. The Secretary's responses to my questions have convinced me that this would result in little more than the most cynical exercise in political posturing at the present time.

Therefore, I plan to wait and circulate this proposal immediately after the election. If the current administration returns, the invitation to come forward with their own proposal still stands. If not, I expect that their successors may well be more aggressive and communicative in their desire to proceed and address these issues. After I finish a little work I have back in Idaho, I will sponsor a series of workshops and/or hearings during the recess to secure specific comments and suggestions for change. I will also direct our staff to meet with interested groups to secure additional comments. I hope that we will then have an improved bill to introduce at the beginning of the next Congress in order to begin a more focused dialogue on legislation that I will strive to advance in a bi-partisan fashion.

To this end, I look at the forthcoming proposal as a working draft—even though I have been at it for 2 years. I urge people to review it carefully. I hope that, with a minimum amount of rhetorical overkill, they will tell us what they think the good parts and the bad parts are. I will not be seeking immediate support, and I will try to avoid immediate condemnation. This proposal is going to change—perhaps dramatically—as we listen and rework it to reintroduce in the next Congress.•

DR. JOE CARROLL CHAMBERS

• Mr. HOLLINGS. Mr. President, I would like to recognize today a man who has given selflessly to his community and profession, Dr. Joe Carroll Chambers. He will be retiring on October 11, 1996 and we are very sad to see him go. Dr. Chambers is a graduate of the University of Tennessee College of Medicine, interned at the Baptist Hospital in Nashville, and completed a masters in public health at the University of North Carolina. He is the recipient of many awards, including the James Hayne Award by the SC Public Health Association for meritorious achievements in public health over an extended period time and the American Lung Association's John Martin Medal for significant contributions. I wish him and his wife, Bettye Ann, the best as they take on the slower pleasures and pace of retirement. I ask to have printed in the RECORD a synopsis of Dr. Chambers' accomplishments as director of the Charleston County Health Department.

The synopsis follows:

JOE CARROLL CHAMBERS, MD, MPH

Dr. Joe Chambers was named Health Director of the Charleston County Health Department in 1977 after having served in the same capacity for Aiken County. Since that time, Charleston has seen improved public health, grown in services, increased activity in preventing potential environmental hazards and, in general, an increased awareness of the need for preventative health measures.

The CCHD Public Health Nursing Division is accredited by the National League for Nursing as is the Home Health Services Program. Home Health visits have continued to

grow for the past several years as the public has become increasingly aware of this service for those in need.

The Women, Infants and Children Food Program serves pregnant, breast feeding, postpartum women, infants and children under five. The Charleston program serves the largest number of patients, who are at nutritional or medical risk, in the state.

One of the County Health Clinics recently received the Distinguished Volunteer Award from the Charleston County School District.

Environmental Health programs have prevented the spread of communicable disease through control of the environment. Annually, the food protection program inspects over 1,700 food service establishments.

Think about this health department that sponsors rabies clinic throughout the county vaccinating 10,000 animals annually, handling more than 4,000 relative activities through its Solid Waste/Litter Control Program and being nationally recognized for its Lead Poisoning Prevention Program. All these have had skillful leadership of fine teams, headed by Dr. Chambers.

Certain health conditions serve as a barometer of the health status of the community. In Charleston, as the immunization of children under two continues to improve, the infant mortality rate improves. Because early and continuous prenatal care services have been promoted by Dr. Chambers, results are positive. Dr. Chambers is recognized as an advocate for prevention initiatives that protect and improve the health of our community.

The Charleston County Board of Health recognizes and congratulates Dr. Joe Carroll Chambers for his vision, knowledge and leadership as Director of the Charleston County Health Department. Through his tenure, we have witnessed a safer Charleston, a growth in needed health services and an increased awareness of environmental risks. This Tri-County area, Charleston, Berkeley and Dorchester Counties, has been fortunate to have enjoyed better community health due to Dr. Chambers' diligence, dedication and foresight. He has given attention to every facet of this area's well being that touches on good health and disease prevention. All of this he has done with skill, grace, kindness and understanding.•

POOT

• Mr. INHOFE. Mr. President, everyone should have one—a Poot, that is. And maybe everyone does have one. The important thing is I do.

We all have our causes. It's just that some of us are more assertive than others. In my business we're all assertive. So I engage in combat every day with my adversaries who, although I love each and every one of the misguided souls, would sell our country and everything we hold dear for one more social program.

Mr. President, they look the other way as we strip our Nation of its vital defenses, leaving us vulnerable to both conventional and missile attacks—and hope desperately the people don't find out the truth. They load up our system with unbearable burdens of overregulation and wonder why we are not globally competitive. They bleed the very lifeblood from our veins in the form of taxes until we are too weak and disheartened to produce—and then come after that last drop—all to support their insatiable appetite to render their control of our lives absolute. They give dancing lessons to hardened criminals—punishment, heaven forbid—and then turn them lose to plunder again.

And so I do combat every day with every fiber of my being, leaving no doubt in my mind that the fate and the very essence of Western civilization is absolute in its dependence upon my actions, wisdom and performance.

That is, until—until I see Poot. And I realize that while she is tolerant of my priorities, hers are not the same. Not even close. She wants the same thing I want but she doesn't worry about it because she assumes I'll do it. And that lets her keep close to the ones she loves, which is everybody, and stay in touch with them to the extent that she knows every birthday, wedding date, draft status and social security number. She, along with her diary, is a data bank with the chip capacity of the CONGRESSIONAL RECORD—that's her priority.

And in addition she is the control center for compassion. For her family, yes, but also anyone else who stumbles along. No matter who is in trouble or in need, she is their counselor and companion—that's her priority.

But all the while her capacity for enjoyment will never be challenged. There's not a Broadway show she hasn't both seen and memorized—that's her priority.

So, Mr. President, you should be so lucky to have a Poot like I do. Just when you begin to believe that you are so important, you have no one to put you back in perspective. I do. And when you forget the street address where you lived when you were 6 years old, you don't have anyone to call. I do. And when you cast a vote that makes everyone hate you, you don't have anyone who understands. I do—in fact she even agrees with me.

So Mr. President, I've got the No. 1 70-year-old Poot in the Nation, a beautiful and compassionate consolidation of the pioneer woman, mother Teresa, and hello Dolly. So maybe, Mr. President, she's right and we're wrong. Anyway, you should be so lucky. Amen.•

ARMED TROOPS IN ARMENIA ARREST DOZENS OF PROTESTERS

• Mr. SIMON. Mr. President, I was sorry to read the story in the New York Times by Steve LeVine under the title "Armed Troops in Armenia Arrest Dozens of protesters."

Armenia is generally moving in the right direction.

While there may have been abuses in the election, the fact that the election results showed the incumbent president getting 51 percent and his major rival 42 percent suggests to me that it was basically a free election.

I have come to have great respect for President Ter-Petrossian who apparently has been reelected.

I believe that restraint is essential for freedom to survive in Armenia.

We do not want Armenia to go in the direction of chaos.

An overreaction to protests does not help the future and the stability of Armenia.

I was particularly concerned about the suggestions in the story that opposition leaders have been jailed or chased underground and that government troops went into an opposition party office and arrested eight people.

I will continue to do what I can for Armenia in or out of the United States Senate, but I hope self-restraint is used by the government. Self-restraint is essential for stability and for freedom.

Mr. President, I ask that the New York Times story be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 27, 1996]

ARMED TROOPS IN ARMENIA ARREST DOZENS OF PROTESTERS

(By Steve LeVine)

YEREVAN, Armenia, Sept. 26—Government troops arrested and beat dozens of demonstrators and bystanders today in an effort to end three days of protests against Armenia's presidential election, which was tainted by charges of fraud.

Armored vehicles blocked the streets, parks and squares where tens of thousands of opposition supporters had protested the announced victory by President Levon Ter-Petrossian in the election on Sunday.

Bands of soldiers in full combat gear patrolled the streets, breaking up gatherings of civilians as the Government imposed what in effect was a state of emergency in parts of the capital.

The main opposition leader, Vazgen Manukian, a former Prime Minister who trailed in the vote to Mr. Ter-Petrossian according to official results, disappeared from public view and his whereabouts were unknown. An Interior Ministry spokesman said Mr. Manukian, 50, was "being pursued."

Some tension remained this evening, but the Government moves seemed to bring at least a pause the three days of protests outside Parliament in which crowds of opposition supporters called for Mr. Ter-Petrossian to resign.

With the crackdown, Mr. Ter-Petrossian has now jailed, chased underground or forced into exile most of his key political opponents.

The Government action came a day after demonstrators tore down a gate and part of a fence surrounding Parliament, charged onto the grounds and beat up the Speaker.

The protesters asserted that fraud nudged Mr. Ter-Petrossian over the 50 percent mark in the election, allowing him to avoid a runoff in Armenia's first presidential election since the collapse of the Soviet Union in 1991.

Government troops dispersed the crowd by firing in the air and beating protesters on Wednesday, and a state newspaper reported today that a policeman and a civilian were killed.

In a television address this morning that opened with pictures of the protest, Mr. Ter-Petrossian condemned his rivals and banned

unauthorized public gatherings. Citing the strife in neighboring Georgia and Azerbaijan since the Soviet collapse, Mr. Ter-Petrossian suggested that he was the only barrier between calm and chaos in Armenia.

"Can it possibly be that the mistakes of our immediate neighbors have taught us nothing, or did we have to feel this on our own skin"? Mr. Ter-Petroassian asked. "I warned you about this danger, the danger of fascism from one group of mentally ill people who wanted to rule over you."

Within an hour, troops stormed into an opposition party office, beat up and arrested eight people, according to a Reuters reporter who witnessed the incident.

At the same time, soldiers fired live ammunition into the air near the Opera House, an opposition gathering place. Men booed and women screamed as soldiers and armed men in plainclothes pursued, beat and arrested several bystanders.

Pro-Government Members of Parliament beat up six opposition members when they entered a morning emergency session. The opposition politicians were then arrested by Interior Ministry troops.

Government officials said the deputies and some other opposition figures would be tried in what they are calling an attempted coup.

Near the concentrations of Government troops, residents were openly bitter, angry and frightened. Uniformed soldiers and men in black leather or denim jackets roamed these areas, slapping, kicking or beating seemingly any Armenian who inquired in less than polite tones about the action.

"This is a nightmare," said Vartan Petrossian, a musician who was strolling with his wife to buy some fish. "This has happened to our neighbors, but how can this happen in Armenia"? I don't want a government that splits in my face."

Another man, who did not want to give his name, asserted: "They are worse than the Communists. What kind of government do we have that keeps power this way?"

In the sprawling flea market near the Razdan Soccer Stadium, a dozen merchants expressed sympathy with the opposition. But they voiced dismay that the opposition would risk disorder in a republic that until now has been spared it.

The ferocity of the crackdown has perplexed diplomats who generally admire Mr. Ter-Petrossian, who rose to power in a wave of nationalism that began here in 1988 and once had been jailed with Mr. Manukian, then a close ally.

It has been hard for some diplomats to reconcile the harsh local ruler with a President who is moderate on other matters like seeking better relations with Turkey.

"What has surprised me is that the Government is doing nothing to sound conciliatory," a Western diplomat said today of the crackdown. "They just sent out the attack dogs."•

TRIBUTE TO BILL MONROE

• Mr. FRIST. Mr. President, I rise today to salute a legend in Bluegrass music. Bill Monroe, the father of Bluegrass music and a member of Nashville Tennessee's Grand Ole Opry, passed away this month. He was a national treasure whose talents spanned several generations and influenced many musical talents.

Bill Monroe had a simple upbringing. While his formal education ended with the third or fourth grade, he had of such great musical talent that he was credited with founding an American music form. Bluegrass music was born when Bill Monroe took the ingredients of what had come before him and mixed them with his emotions, acoustic talent, and mandolin playing skills.

Monroe and his brothers, Charlie and Birch Monroe, performed together for several years and made their radio debut in 1927. Later, Bill struck out on his own, forming his own Bluegrass band and joining the Grand Ole Opry in 1939. Monroe's success with the mandolin in Bluegrass music influenced other musicians to include that instrument. In time it became an essential instrument to Bluegrass music.

Mr. President, over the years Monroe's band went through many changes. Band members moved on and new talents were brought in. At its peak in the 1940's, Monroe's band remained a stronghold in the music industry. Though rock 'n' roll quickly took center stage and pushed aside the sound of Bluegrass, Monroe's genius left its mark on the music industry.

The influence of Bill Monroe and his mandolin tunes can be seen in rock 'n' roll, as well as country music. The "King of Rock 'N' Roll," Elvis Presley, was heavily influenced by the music of Bill Monroe, and even recorded Monroe's "Blue Moon of Kentucky" on his first album. Buddy Holly was one of Bill Monroe's greatest fans and Bluegrass contributed to many of his songs. Country music has also been influenced by Bill Monroe. Ricky Skaggs grew up listening to Bluegrass music and was a young fan of Monroe. The music of Hank Williams is also influenced by the Bluegrass great. Bill Monroe's music and spirit has become a part of our culture.

Mr. President, it is important that we remember Bill Monroe as an artist and a contributor to our Nation's culture. He influenced the lives of so many young artists and his music and talent live on today. He will be missed, but never forgotten.•

A TRIBUTE TO GAIL WALKER, RN

• Mr. INOUYE. Mr. President, I rise to pay tribute to an outstanding American health care hero. Ms. Gail Walker is a registered nurse and the executive director of the Hamakua Health Center in Honokaa, HI. She was recently honored by the Robert Wood Johnson Community Health Leadership Program for her outstanding commitment to providing residents of the Hamakua area with continuing access to health care. She was 1 of 10 health care heroes selected from a national pool of 720 candidates and the recipient of a $100,000 award for her community cause. This is truly an outstanding life-time achievement.

Ms. Walker was born in Honokaa, HI and raised on a cattle ranch in Kukaiau, a community just east of Honokaa, where her father worked as a cowboy and mechanic. Her mother is a retired nurse. Leaving her native home for a formal nursing education and several years of work experience, she returned to excel in the health care industry on Oahu. In 1989 she returned to her home to take the position of director of nursing at the Hamakua Medical Center. In 1991, she became the executive director of that health center, the only medical clinic in the district.

Ms. Walker quickly reorganized this clinic, instituting an appointment process, thus expediting medical care to the beneficiaries. In 1992, disaster struck the area when the Hamakua Sugar Co. filed for bankruptcy. Her friends and neighbors were without jobs and their families without support. Without the innovation, dedication, energy, and personal sacrifice of Ms. Walker these people would have lost not only their security, but their health care as well.

Ms. Walker organized a task force of local residents, politicians, and department of health representatives. Financing the clinic's operation through her own funds, she had to manage the health care of a community with one tenth of her normal budget. Over the next 2 years, Ms. Walker engineered support initiatives with the insurance companies, local banks, local private donors, and the State Legislature. This resulted in the restoration of the health care system, a life line for the 7,500 residents of this 900-square-mile poverty-stricken area.

In 1995 the State of Hawaii built a 7,000-square foot rural health clinic with a staff of 32 dedicated physicians, nurses, and support personnel in Honokaa. This new facility provides an expanded array of medical and social services never seen before in this rural, plantation community. These services include primary care, mental health, disease prevention, an indigent medication program, a nurse certification training program, and a School-to-Work Nurse's Aide Training Program for high school juniors. Ms. Walker will use funds from this award to establish a new urgent care program thus expanding the health care services in the community even further.

It is hard to overstate the benefits these services provide the community of Honokaa, HI. Ms. Walker's ability to overcome enormous obstacles to provide modern health care in her native community attests to her strength of character, her compassion, and vision. I want to personally and publicly acknowledge my sincere appreciation to Ms. Walker for her dedicated years of exemplary leadership and service to her community and to bid her a heartfelt mahalo.•

TRIBUTE TO BRIAN THOMPSON, BOB GAGNON, "CHIPPER" ROWE, SANDY ROBINSON, MURRAY SMITH, AND ALBERT DAUPHINAIS, SIX NEW HAMPSHIRE HEROES

• Mr. SMITH. Mr. President, I rise today to pay tribute to six heroic residents of North Sutton, NH, who saved the life of my good friend and neighbor, Rosa Weinstein. Brian Thompson, Bob Gagnon, "Chipper" Rowe, Sandy Robinson, Murray Smith and Albert Dauphinais all acted without hesitation to rescue Rosa from her burning car in order to get her to the hospital. I am very proud of these six individuals from North Sutton who did not waste 1 second in coming to Rosa's rescue. I would like to extend a personal word of thanks to each one of them for saving my friend's life.

On September 1, Rosa Weinstein was driving through North Sutton, NH, when her car went out of control, flipped over on its side and caught on fire. By what many have described as a miracle, the accident occurred within a few yards of the North Sutton Volunteer Fire Station and in front of the home of Brian Thompson. Immediately after Brian saw the car from his kitchen window, he used a fire extinguisher to contain the flames coming from the car. As Brian was doing this, two firemen, Bob Gagnon and "Chipper" Rowe, ran to the nearby firehouse for the equipment to put out the flames. Three additional heroes, Murray Smith, Albert Dauphinais, and Sandy Robinson, a emergency management technician, helped put out the flames, rescued Rosa from inside the car and kept her alive long enough to be taken to the hospital.

Rosa suffered considerably from the accident, but she is very grateful for the actions of the North Sutton residents who so quickly came to her aid. There is no doubt whatsoever in anyone's mind that Rosa owes her life to these six heroes.

It is my hope that Rosa will regain her strength soon and will make a speedy recovery over the next few weeks. Both Rosa and her husband, Harris, are wonderful, thoughtful friends. Indeed, I was very sad to hear about the accident, but am also very proud of the way the six North Sutton residents reacted.

Harris expressed the deep gratitude of Rosa's family by saying, "The uncommon heroism demonstrated by Brian Thompson, Bob Gagnon, "Chipper" Rowe, Sandy Robinson, Murray Smith, and Albert Dauphinais is an extraordinary example of America at its best. We will forever be thankful for their selfless, quick-thinking action."

Mr. President, the actions of these six individuals on that day in early September are truly remarkable. Their efforts are appreciated not only by Rosa's family but by myself and many other New Hampshire residents. And, for Rosa, I wish the very best for her as she recovers from her injuries. Our thoughts and prayers are with her.•

TRIBUTE TO DANA PODELL OF COLORADO, GIRL SCOUT GOLD AWARD WINNER

• Mr. BROWN. Mr. President, I would like to take this opportunity to recognize 18-year-old Dana Podell of Greeley, CO. The Mountain Prairie Girl Scout Council honored Molly with the Girl Scout Gold Award on May 4, 1996. The Gold Award is considered to be the highest honor achieved in U.S. Girl Scouting and is awarded to young women between the ages of 14 and 17 who display outstanding achievement in the areas of leadership, community service, career planning, and personal development. Additionally, a Girl Scout must earn the Career Exploration Pin, four interest patches, the Senior Girl Scout Leadership Award, and complete a Gold Award project of her own creation.

As a senior at Greeley Central High School, and a member of Girl Scout Troop 2000, Dana displays genuine leadership and truly exhibits concern for the world around her. In March 1996, Dana began work on the Gold Award project by organizing bilingual story times, recruiting Spanish-speaking volunteers from the community. She also found an established organization—the Chavez Center—willing to continue the program.

Dana has made outstanding contributions to her community and is an excellent role model for all youth. I am proud to salute Dana as a recipient of the prestigious Girl Scout Gold Award.•

MENTAL HEALTH CARE: AN AGENDA FOR THE FUTURE

• Mr. FRIST. Mr. President, yesterday, the "Mental Health Parity Act of 1996" was signed into law by President Clinton. Mr. President, the act provides parity of coverage for treatment of mental illness. The debate over the bill was both stimulating and educational, in that it encouraged many of us to learn more about issues affecting the management of mental health disorders. I believe that, as a group, we now have a greater awareness and sensitivity to this area. I would like to take this opportunity to present some of the issues which I feel must be addressed.

Mental health may be affected by numerous factors ranging from outside stressors, presenting in ways that may be difficult to manage, to physical disease or genetic defects that impair brain function. The erosion of our traditional social support systems, including fragmentation of extended and nuclear family structures, have contributed to the morbidity of mental disorders. Increased complexity and stress in society are also responsible for the higher incidence of symptoms.

Consequently, alcohol, drug abuse, and mental health disorders affect 18–30 percent of adults annually. Suicide claims 30,000 lives each year. We are also faced with skyrocketing costs and utilization of mental health and substance abuse services which now represent 4 percent of the GDP. However, these costs represent only one-fourth of the total price. Employees with behavioral health problems experience higher accident rates, use more health benefits, and have lower overall work performance ratings than other workers. The costs of crimes which are committed as a result of behavioral disorders must also be included.

As a physician and surgeon, I understand the impact of mental illness on the lives of my patients and their families. I also understand the importance of good psychiatric care. Advances in medication and psychological therapeutic techniques have improved our ability to treat these disorders effectively. In addition, the destigmatization of mental illness and chemical dependency have led to a greater willingness on the part of the general public to seek help for these problems.

However, traditional techniques have not been effective in controlling either the costs or quality of care provided in this arena. Reorganization of public sector, local authority, and managed care contracting has begun and a niche industry of specialized managed mental health/substance abuse organizations or carve-outs has developed.

Unfortunately, we cannot necessarily rely on competition and the market to solve these problems. These forces may fail because of externalities and information problems. Even our health care providers have not always received the education about mental illness necessary to perform their tasks. At this point, no one is sure that the new programs are any more effective than the old ones.

As a transplant surgeon, I understand the value of teamwork. I believe that we must use that approach if we are to solve these problems. Government, payers, providers, and consumers must each contribute solutions. Together, we can accomplish the following objectives:

First, parity of coverage between mental and physical disorders must be encouraged.

Second, payers must develop incentives for providers to provide appropriate care as well as information for patients.

Third, we must educate providers about the most cost-effective ways to deliver high quality care. Medical school curricula should be revised to

provide more in-depth training on mental health and substance abuse disorders. Reimbursement mechanisms for graduate medical education must be changed so that residents are less tied to acute-in-patient facilities. When they are placed in facilities across the continuum of care they will receive more exposure to issues of chronic behavioral disease management.

Fourth, we must learn how to measure the real value of care we provide in terms of health improvements per dollar spent on care. We must also consider the social consequences of that care.

Fifth, we must learn how to better estimate the effects of cost containment measures on treatment cost effectiveness.

Sixth, we must encourage the development of consistent standards for use of evidence in policy debates.

Mr. President, this Congress has worked in a bipartisan fashion to address mental health parity. As policy makers, we can continue to address the needs of the mental health community by working with educators, health plans, employers, and researchers to encourage them to meet these other important objectives. I believe our health care system can meet these goals. However, it requires cooperation from the entire health care community. I urge my colleagues in the U.S. Senate to consider the issues of mental health in this broader context; as well as, to continue to educate ourselves on the mental health issues that impact our health system and society as a whole.•

MENTAL HEALTH PARITY

• Mr. WELLSTONE. Yesterday, President Clinton signed the VA/HUD appropriation bill and the Mental Health Parity amendment which was included in the appropriated bill into law. For all of us who worked so hard to achieve passage of the parity amendment, the enactment of the provision represented more than the insurance policy changes that the provision will actually require. Passage of the legislation is a symbol of fairness, progress and hope for millions of Americans and their families who, for far too long, have been victims of discrimination—families who for far too long have been thrust into bankruptcy, or denied access to cost-effective treatments because their illness was a mental illness and not a physical illness like cancer or heart disease. Mental illness has, in one way or another, touched the lives of many of us who work here on Capitol Hill and I am pleased that the 104th Congress was able to take this first and very necessary step toward parity.

I want to take this opportunity to say that while the passage of this amendment was a historic step forward for people with mental illnesses, the amendment was a fist step and a first step only. It does not require parity for copayments or deductibles or inpatient days or outpatient visit limits. It also does not include substance abuse services. My State of Minnesota has passed legislation which goes much further than what we were able to accomplish in this Congress. Minnesota requires that health plans provide full parity coverage for mental health and substance abuse services. The cost impact of this legislation in Minnesota has been minimal according to a recent study based on preliminary data.

Without full parity coverage for mental health and substance abuse, health plans will continue to discriminate against individuals and families in need of services. The responsibility for and cost of care will continue to be shifted from the private to the public sector. For children and adolescents, the burden and cost of care will continue to be shifted to the child welfare, education, and juvenile justice systems. These overburdened systems are often not able to provide needed services, and many are forced to go without treatment. This will continue to be the case.

I have seen first hand in my State at facilities like Hazelden and others, the benefits that drug and alcohol treatment can bring to the lives of millions of Americans. Alcohol and other drug addictions effect 10% of American adults and 3 percent of our youth. Untreated addition last year alone cost this Nation nearly $167 billion. Ultimately we all bear the cost of delays or gaps in mental health and substance abuse services. Sadly, that fact has not been changed by the passage of Senator DOMENICI's and my amendment.

We have much more work to do and I look forward to consideration of legislation which would provide full parity coverage for mental health and substance abuse services. I am grateful for the advocacy, hard work, and compassion of the mental health and substance abuse community. Without them, we could not have achieved such success this year. This victory was made possible because families and friends of people struggling with mental illnesses were willing to speak out in public. This issue has a human face now and that made it possible to win votes and enact legislation.

I look forward to continuing to work with Senators DOMENICI, KENNEDY and CONRAD to expand coverage for mental health and substance abuse services and I also want to take this moment to thank Senators SIMPSON and KASSEBAUM who will not be here next year but were critical in enabling us to take the first critical step toward parity.•

TRIBUTE TO JEREMY MARKS-PELTZ

• Mr. MACK. Mr. President, every day Americans are exposed to much of what is wrong with America and not enough about what is good and right across our Nation and in our communities.

It is in that light that I rise today to speak about a young man in Florida whose compassion and humanity should serve as a reminder to all of us that there is much about America that is good and right—12 year old Jeremy Marks-Peltz of Kendall, FL.

Last year Jeremy was on a boat tour in south Florida and saw the unfortunate plight of homeless people living in cardboard boxes. He decided he wanted to help them, and began organizing a food, clothes and furniture drive for some of south Florida's homeless charities.

Jeremy went to Bloomingdale's in Miami seeking assistance for his charity drive; they decided to help. Bloomingdale's recently wrote me about Jeremy's efforts and why they got involved.

> We receive hundreds of requests from charities for donations through letters, but this was the first time I was face to face with a twelve year old boy wanting to help the needy. It was touching and in a society that some times only remembers the needy during the holidays, it was refreshing.

With Bloomingdale's assistance. Jeremy's desire to make a difference in his community has resulted in a full-scale campaign called, Making a World of Difference, which will run through the year. The campaign, which began in February, consists of an appeal to all of Bloomingdale's customers for donations for the needy, including food, clothing and furniture.

Over the years I have said many times that individuals must play a greater role in the fight to make our communities safer, more prosperous, and simply better places for all of us to live. Jeremy's work to make south Florida a better place for all its residents to live exemplifies that ideal.

John Randolph once wrote, "Life is not so important as the duties of life." Only 12 years old, Jeremy Marks-Peltz has already learned this lesson well. His compassion, commitment, and understanding of what is genuinely important in this world are truly shining examples for all of us.•

TRIBUTE TO FIRST TENNESSEE BANK

• Mr. FRIST. Mr. President, I rise today to salute First Tennessee National Corporation, an innovative company that maintains company success by focusing on a family-friendly environment. First Tennessee Bank's success can be attributed in part to the amount of time and effort they put into maintaining a positive employee-company relationship.

Three years ago, First Tennessee developed its Family Matters program to address concerns that involved the work-family relationship. They realized early on that employee job performance did not rely solely on the working conditions at the office. Personal time influenced employees' overall attitude, and in turn, their attitude toward work. First Tennessee adopted a non-traditional work schedule that gives employees more freedom to adjust their schedules around personal needs or family obligations. Family Matters trained managers and supervisors to work with employees who wanted flexible work hours to give them the time they needed without sacrificing job productivity. Variations of the flexible hours differ, but one good example can be seen at First Tennessee's downtown Chattanooga branch office. Richard Grant, Vice President of Business Development and Manager of the word processing center, was approached by two of his employees in the word processing center who wanted to stagger their work hours and give themselves a day off every other Friday. He agreed, and the women were not only happier, their productivity in their high stress jobs has increased. Now they work longer 4-day weeks one week, followed by a regular 5-day work week the next.

Mr. President, First Tennessee's efforts have paid off. They were recently named the number one family-friendly company by Business Week magazine. This is a fine example of how change and risk-taking are beneficial to the growth of companies. First Tennessee has seen the benefits of its Family Matters program and other family friendly programs in elevated company morale, improved productivity and increased employee tenure.

First Tennessee's interest in improving itself from the inside out is an example to us all that every organization can make improvements. Taking a proactive approach and involving employees in the learning process is a greatly admired advance toward company improvement. First Tennessee has been innovative and is sure to continue to see added improvements and benefits due to its responsibility to its employees as well as its customers.•

TRIBUTE TO DR. BILL WILEY

• Mr. JOHNSTON. Mr. President, I have been privileged in my career in the U.S. Senate, through my work on the Energy and Natural Resources Committee and on the Appropriations Subcommittee on Energy and Water Development, to work with many of the great scientific minds of this country. I rise today to pay tribute to one of those scientists with whom I worked especially closely and who was a longtime close personal friend before his death last summer.

Dr. Bill Wiley of the Battelle Memorial Institute built a monumental career and left a huge legacy first and foremost because of his special gifts and training as a fine scientist. His achievements over his 31-year career with Battelle, beginning as a staff research scientist and ending with his position as vice president for Science and Technology, contributed significantly to this country's scientific understanding.

But I believe that the work for which Bill Wiley should and will be best remembered is the concrete result of his vision which is now nearing completion on the banks of the Columbia River in Richland, WA, the Environmental Molecular Sciences Laboratory [EMSL], which will be the jewel of the Pacific Northwest National Laboratory and which may very well hold the key to this country's Herculean effort to the cleanup of the Hanford Nuclear Reservation and other, similar sites around the country.

Armed only with this vision and his irresponsible charm and enthusiasm, Bill Wiley came to see me several years ago to lay out his plans for EMSL, undaunted by skeptics who had told him at every turn that it might be a good idea, but the Congress was unlikely to embrace such a costly project. I must say that had it been anyone other than Bill Wiley pushing the dream, the skeptics probably would have been right. But Bill not only convinced me that it was worth doing, he persuaded all the other relevant players that not only was it something we could do, but that it was something a great nation should not fail to do. I visited the EMSL facility in its late stages of construction shortly before Bill's death last summer. Anyone who ever harbored doubts about the wisdom of this research facility should go have a look when it opens its doors next month. It will be home to America's finest scientists employing the latest tools doing the best research in the world today. And it is a point of special pride to those of us who were his friends that they will be doing so in the building named in memory of William R. Wiley.

This African-American son of an Oxford, MS, cobbler served his Nation well professionally and as a humanitarian who was never too busy in his career to help the less fortunate who were trying to work their way up the ladder or merely to get to the first rung of the ladder. I know many colleagues join me in expressing our condolences to Bill's loving wife Gus and to his daughter Johari Wiley-Johnson and in expressing our deep gratitude for the paths that Bill Wiley charted and the mark he left behind.•

THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT

• Mr. KEMPTHORNE. Mr. President, late last night the Senate acted to adopt S. 2078, the Wildfire Suppression Aircraft Transfer Act. Senator BINGAMAN of New Mexico and I introduced this bill, along with Senator CRAIG with the support of the administration 2 weeks ago. Senator KYL has joined us as a cosponsor, and the bill has been cleared by the Armed Services Committee.

This summer, more acres have burned than in any other fires season in the past 50 years, and unfortunately, this fire season is not over yet. Forest scientists warn us that severe fire seasons are becoming more and more frequent, which is a real cause of concern when rural populations growth is increasing the number of private homes that come into direct contact with fires on Federal lands.

The Forest Service has determined that the existing fleet of aircraft is inadequate to meet Federal obligations to control fire to protect lives, property and resources. The fleet available to them consists currently of 39 planes, two thirds of which are World War II and Korean war era aircraft. An average of one plane a year is lost to old age or accidents. In meetings with the Armed Service Committee, to which the bill was referred, the Forest Service estimated that they will need access to 20 additional planes over the next 3 to 5 years to maintain service and meet increasing demands.

The most obvious source of these planes is surplus military equipment. But the Forest Service and the Department of Defense have found that the planes are not making it through the system to be available for purchase by private contractors. In response, this bill would give the Secretary of Defense the option of making fire fighting needs a priority for the sale of aircraft excess to the needs of the Department. The Secretary of Defense would do so only in response to a request from the Secretary of Agriculture. The legislation ensures that aircraft could only be available for purchase by companies certified to have Forest Service contracts to fight fires, and requires the Secretary of Defense to develop regulations to enforce restrictions that the aircraft sold would only be used for fire fighting purposes.

We do not have time to waste. It will take an estimated 1 to 2 years to retrofit a plane to be used to fight forest and range fires. By Forest Service estimates, we are already two planes short of an adequate fire fighting fleet. The 1996 fire season has already burned nearly 6 million acres across the country. That is three times the 10 year average, but it is not much more than we saw burn in 1994. These fires are burning more intensely, with devastating effects on the environment, and creating dangerous situations for our citizens. In my own State, local and Federal officials are working around the clock to ensure that the scorched hillsides above Boise to try to minimize

the devastating mudslides that are only a few inches of rain away. In the way of those mudslides are schools, homes, the downtown district, and our State capitol building.

I am pleased my colleagues recognized the urgency, and agreed to adopt this legislation to make it possible for the Forest Service to have access to the equipment they need to keep our citizens, their property and our natural resources safe from catastrophic fires.•

TRIBUTE TO CHARLES M. PIGOTT

• Mr. GORTON. Mr. President, at the end of this year Mr. Charles M. Pigott will step down as chairman and chief executive officer of PACCAR, Inc. Today I would like to recognize Mr. Pigott for his superb achievements and to pay tribute to a thoughtful and considerate friend.

Guided for nearly three decades by Mr. Pigott's steady hand, PACCAR is now America's largest domestically owned truck manufacturer. His pursuit of quality and innovation has left a lasting imprint on the company and American industry as well.

Mr. Pigott began at PACCAR with a summer job in 1945. He went on to receive an engineering degree from Stanford University, then served as a Navy aviator in Korea. When his tour of duty ended, he rejoined PACCAR. In 1967 he became chief executive officer. He oversaw a period of great change in the industry, a period in which trucks became safer, more efficient and longer-lasting.

The technical center Mr. Pigott built has brought forth many new products and innovations. They include the aerodynamic Kenworth T600, which was so widely acclaimed and imitated it changed the look of heavy-duty trucks; the Kenworth T2000, PACCAR's newest edition; and the more than 330 patents PACCAR has garnered under Mr. Pigott.

The market, of course, rewards quality. Nearly one out of four class 8 trucks sold in America today is a Peterbilt or Kenworth. And company sales have, on Mr. Pigott's watch, grown from $320 million to $4.5 billion annually. Net income increased almost sixteen-fold, and shareholders' equity from $88 million to well over $1.2 billion. It is remarkable that every year in which Mr. Piggot was CEO, PACCAR, recorded a profit.

Mr. Pigott has made his mark in the community as well. For nearly five decades he has worked with the Boy Scouts of America, serving as president of both the Chief Seattle Council and the National Council. He has been general campaign chairman and trustee for United Way of King County, chairman of the Washington Roundtable and in leadership positions for many other cultural and civic organizations. He also heads the PACCAR Foundation, which distributes approximately $3 million yearly to civic, cultural, educational and health and welfare causes in communities where PACCAR does business.

Mr. Pigott has been blessed with a wonderful family. He and his wife Yvonne have raised seven fine children.

When Mr. Pigott steps down on December 31, 1996, he will continue family tradition and hand leadership over to his son. I congratulate him on a splendid career, thank him for his contributions to American industry, and wish him all the best in his retirement.•

TRIBUTE TO DAVID EHRENFRIED

• Mr. COHEN. Mr. President, recently, Dave Ehrenfried retired after 40 years as an editor and cornerstone of Lewiston, ME's Sun-Journal.

He began at the paper in 1956, where he quickly showed his talent for newspaper reporting. Dave held many positions throughout his tenure at the Sun-Journal. Most notably, his work was recognized by the New England News Executives Association with a first place award for editorial writing in 1982. In 1988, Dave was named the assistant executive editor at the Sun-Journal and in 1991 he became a representative, advocating for readers of the daily and Sunday papers. He was once again recognized by his peers for his dedication to journalism by being asked to serve as president of the New England Society of Newspaper Editors in 1993.

Dave has always been a hard worker, a requirement when you work for one of Maine's leading newspapers. His coworkers hold him in the highest esteem, including one member of the Sun-Journal staff who referred to him as a quiet leader with sound judgment. Dave gave himself and his time to all who asked and the people who turned to him who knew that they were heard. Dave is a remarkable person who has dedicated his life to journalism and integrity.

I commend his commitment to his family, his coworkers, and to Maine journalism.•

THE CALENDAR

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following bills, en bloc: Calendar Nos. 369, 488, 235, 238, 371, 233, 236, 237, 368, 232, 370, 372, and 373.

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

Mr. NICKLES. Mr. President, I ask unanimous consent that the bills be deemed read the third time, passed, the motion to reconsider be laid upon the table, that any statements relating to these measures be placed at this point in the RECORD, and that the preceding all occur en bloc.

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

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2501) to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 1014) to authorize extension of time limitation for a FERC-issued hydroelectric license, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

POWER ACT DEADLINE EXTENSION

The bill (H.R. 1290) to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 657) to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2695) to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 1011) to extend the deadline under the Federal Power Act application to the construction of a hydroelectric project in the State of Ohio, was considered, ordered to a third reading, read the third time, and passed.

HYDROELECTRIC PROJECT EXTENSION

The bill (H.R. 1335) to provide for the extension of a hydroelectric project in the State of West Virginia, was considered, ordered to a third reading, read the third time, and passed.

FERC-ISSUED HYDROELECTRIC LICENSE TIME LIMITATION EXTENSION

The bill (H.R. 1366) to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2773) to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FERC LICENSED HYDRO PROJECTS

The bill (H.R. 680) to extend the time for construction of certain FERC licensed hydro projects, was considered, ordered to a third reading, read the third time, and passed.

HYDROELECTRIC PROJECT DEADLINE EXTENSION

The bill (H.R. 2630) to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION AND LICENSE REINSTATEMENT

The bill (H.R. 2816) to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2869) to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT AMENDMENTS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 100, S. 737.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 737) to extend the deadlines applicable to certain hydroelectric projects, 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.

AMENDMENT NO. 5412

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. MURKOWSKI, proposes an amendment numbered 5412.

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

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

The amendment is as follows:

Beginning on page 2, line 1, through page 6, line 6, strike sections 2, 3, 4, 5 and 6, and renumber subsequent sections accordingly.

On page 9, following line 17, add the following new section:

"SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.

"(a) PROJECT NUMBER 3943.—

"(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

"(2) An extension may be granted under paragraph (1) only in accordance with—

"(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

"(B) the procedures of the Federal Energy Regulatory Commission under such section.

"(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

"(b) PROJECT NUMBER 3944.—

"(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

"(2) An extension may be granted under paragraph (1) only in accordance with—

"(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

"(B) the procedures of the Commission under such section.

"(3) This subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

"SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA.

"Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

"(a) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

"(b) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other federal agency may assess, not to exceed a total of $20,000 for any year.".

Mr. NICKLES. I ask unanimous consent that the amendment No. 5412 offered by Senator MURKOWSKI be agreed to, the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table.

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

The amendment (No. 5412) was agreed to.

The bill (S. 737), as amended, was deemed read the third time, and passed, as follows:

S. 737

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 "Federal Power Act Amendments of 1996".

SEC. 2. LIMITED EXEMPTION TO HYDROELECTRIC LICENSING PROVISIONS FOR TRANSMISSION FACILITIES ASSOCIATED WITH THE EL VADO HYDROELECTRIC PROJECT.

(a) EXEMPTION.—Part I of the Federal Power Act, and the jurisdiction of the Federal Energy Regulatory Commission under such part I, shall not apply to the transmission line facilities associated with the El Vado Hydroelectric Project (FERC Project No. 5226-002) which are described in subsection (b).

(b) FACILITIES COVERED BY EXEMPTION.—The facilities to which the exemption under subsection (a) applies are those transmission facilities located near the Rio Chama, a tributary of the Rio Grande, in Rio Arriba County, New Mexico, referred to as the El Vado transmission line, a three phase 12-mile long 69 kV power line installed within a 50-foot wide right-of-way in Rio Arriba County, New Mexico, originating at the El Vado Project's switchyard and connecting to the Splits 69 kV Switching Station operated by the Northern Arriba Electric Cooperative, Inc.

SEC. 3. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

The Federal Power Act, as amended, (16 U.S.C. 1791a et seq.) is further amended by adding the following at the end of section 23:

"(c) In the case of any project works in the State of Alaska—

"(1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection;

"(2) for which a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

"(3) having a power production capacity of 5,000 kilowatts or less;

"(4) located entirely within the boundaries of the State of Alaska; and

"(5) not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system,

the State of Alaska shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Governor of the State of Alaska notifies the Secretary of Energy that the State has in place a process for regulating such projects which gives appropriate consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the adequate protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable.

"(d) In the case of a project that would be subject to authorization by the State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

"(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.

"(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.".

SEC. 4. FERC VOLUNTARY LICENSING OF HYDROELECTRIC PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon".

SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.

(a) PROJECT NUMBER 3943.—

(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

(2) An extension may be granted under paragraph (1) only in accordance with—

(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

(B) the procedures of the Federal Energy Regulatory Commission under such section.

(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

(b) PROJECT NUMBER 3944.—

(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

(2) An extension may be granted under paragraph (1) only in accordance with—

(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

(B) the procedures of the Commission under such section.

(3) this subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA.

Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

(1) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

(2) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other Federal agency may assess, not to exceed a total of $20,000 for any year.

RELOCATION OF THE PORTRAIT MONUMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 216, just received from the House.

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

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 216) providing for relocation of the Portrait Monument.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 216) was agreed to.

The preamble was agreed to.

Mr. STEVENS. Mr President, House Concurrent Resolution 216, to move the Suffrage Statue from the crypt to the rotunda is a good compromise.

I congratulate Representative CONSTANCE MORELLA and the leadership of the House for devising and approving this measure.

The House resolution compliments the resolution passed in the Senate last session and recognizes three important women leaders: Elizabeth Cady Stanton, Lucretia Mott, and Susan B. Anthony; and an important right—the right for women to vote. That change in our democracy changed the world.

This statue will inspire some 4 million visitors to the rotunda next year with the physical reality that this Nation was shaped by both men and women leaders.

There are several people that deserve special recognition: Of the $75,000 required for the move, $1,600 was raised by 9-year old Arlyss Endres from Arizona; Coline Jenkins—the great granddaughter of Elizabeth Cady Stanton—worked tirelessly with the Woman Suffrage Statue campaign committee.

Marian Miller, vice president of the Federation of Republican Women, and political activists from both sides of the aisle such as Republican Ann Stone and Democrat Joan Wages, demonstrated the commitment of women across the Nation to this cause.

Among the literally thousands of men and women contributing their time and money to this project, I would like to recognize for the record the work of Sherry Little, Shelley Heretyk, Barbara Irvine, Maia Greco, Kay Cash-Smith, Anita Estell, and National Woman Suffrage Statue Campaign cochairs Joan Meacham and Karen Staser.

The resolution affirms our respect for the historic contributions of women.

There is an unfinished portion of the statue that represents future generations of women leaders. My hope is that young women, like my own daughters, will take inspiration in the accomplishments of these historic figures.

Mr President, these were real women who made real sacrifices to accomplish real social change. I am gratified that the Congress has acted to recognize them with this resolution.

Mr. WARNER. Mr. President, I rise today in support of House Concurrent

Resolution 216—a resolution that has received unanimous support in the House of Representatives. This resolution directs the Architect of the Capitol to relocate to the Capitol rotunda, the suffrage monument of Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott, three pioneers who fought for women's enfranchisement.

In the House, this legislation passed under the able leadership of Congresswoman CONNIE MORELLA from Maryland. This resolution represents a 76-year battle to honor these visionary women. First presented to the Congress in 1921, the all-male legislature unveiled the statue with fanfare and pageantry in the Capitol rotunda. Not one day later, the sculpture was promptly ushered to the relative obscurity of the Capitol crypt. Four legislative attempts and 75 years later, my good friend and colleague from Alaska, Senator TED STEVENS, secured the support of the Senate for this bill to commemorate the milestone anniversary of woman's suffrage. The House of Representatives then considered the measure and expressed concerns about the use of public funds for the relocation costs. As a result, the resolution was tabled and negotiations for an acceptable compromise began.

Mr. President, I am proud that this compromise has the unanimous support of the House of Representatives, the U.S. Senate, 72 national women's organizations and the very dedicated woman suffrage statue campaign. House Concurrent Resolution 216 will allow women across America the opportunity to personally participate in making their history visible. Armed with $75,000 in donations from citizens across the country—dollars from schoolchildren in Arizona, businessmen in Tennessee, as well as many committed women from my home State of Virginia—the woman suffrage statue campaign is now prepared to donate those funds to recognize women's rich achievements in our society. This resolution will also create a bipartisan commission to select a permanent site for this monument and develop an appropriate educational display that will focus on the lives and hard-won struggles of these crusaders. This is a solid compromise that represents the views of the House of the Representatives, the U.S. Senate, many diverse women's organizations, and, I believe, the views of most Americans.

Mr. President, I want to recognize those individuals who have been truly committed to this effort: The thousands of American citizens who contributed their hard-earned dollars toward this worthy cause. Those who spread the word to friends, sisters, mothers and daughters about the campaign. Members in the House, Representative MORELLA, Representative SCHROEDER, and Representative JOHNSON for their diligence in reaching this compromise. And especially Karen Staser and Joan Meacham, cochairs of the woman suffrage statue campaign, and Sherry Little of my Rules Committee staff. All of these individuals have worked diligently to make this historic piece of legislation a reality.

Mr. President, this bill represents 76 years of effort on the part of American women. I am proud to say that passage of this legislation ensures that every American who visits the U.S. Capitol will see the history of the woman suffrage movement preserved in our Nation's rotunda. I am honored to have taken part in an effort that, after so many years, makes visible the traditions of equality and democracy that make our country great.

MEDICAID CERTIFICATION ACT OF 1995

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 1791, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1791) to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

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

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

Mr. NICKLES. I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R 1791) was deemed read a third time, and passed.

DAVID H. PRYOR POST OFFICE BUILDING IN CAMDEN, AR

Mr. NICKLES. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3877, just receive from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3877) to designate the "David H. Pryor Post Office Building" in Camden, Arkansas.

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

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

Mr. NICKLES. I ask unanimous consent that the bill be read three times, passed, and that the motion to reconsider be laid on the table.

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

The bill (H.R. 3877) was deemed read a third time, and passed.

CHILD ABUSE PREVENTION AND TREATMENT ACT AMENDMENTS OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 919) to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 919) entitled "An Act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Abuse Prevention and Treatment Act Amendments of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 100. Findings.

Subtitle A—General Program

Sec. 101. Office on Child Abuse and Neglect.
Sec. 102. Advisory Board on Child Abuse and Neglect.
Sec. 103. Repeal of Inter-Agency Task Force on Child Abuse and Neglect.
Sec. 104. National clearinghouse for information relating to child abuse.
Sec. 105. Research, evaluation and assistance activities.
Sec. 106. Grants for demonstration programs.
Sec. 107. State grants for prevention and treatment programs.
Sec. 108. Repeal.
Sec. 109. Miscellaneous requirements.
Sec. 110. Definitions.
Sec. 111. Authorization of appropriations.
Sec. 112. Rule of construction.
Sec. 113. Technical and conforming amendments.

Subtitle B—Community-Based Family Resource and Support Grants

Sec. 121. Establishment of program.

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

Sec. 131. Repeal of title III.

Subtitle D—Miscellaneous Provisions

Sec. 141. Table of contents.
Sec. 142. Repeals of other laws.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

Sec. 201. State demonstration grants.
Sec. 202. Allotments.
Sec. 203. Authorization of appropriations.

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

Sec. 211. Findings and purpose.
Sec. 212. Information and services.
Sec. 213. Authorization of appropriations.

Subtitle C—Abandoned Infants Assistance Act of 1988

Sec. 221. Priority requirement.
Sec. 222. Reauthorization.

Subtitle D—Reauthorization of Various Programs

Sec. 231. Missing Children's Assistance Act.

Sec. 232. Victims of Child Abuse Act of 1990.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 100. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), to read as follows:

"(1) each year, close to 1,000,000 American children are victims of abuse and neglect;";

(2) in paragraph (3)(C), by inserting "assessment," after "prevention,";

(3) in paragraph (4)—

(A) by striking "tens of"; and

(B) by striking "direct" and all that follows through the semicolon and inserting "tangible expenditures, as well as significant intangible costs;";

(4) in paragraph (7), by striking "remedy the causes of" and inserting "prevent";

(5) in paragraph (8), by inserting "safety," after "fosters the health,";

(6) in paragraph (10)—

(A) by striking "ensure that every community in the United States has" and inserting "assist States and communities with"; and

(B) after "child" insert "and family"; and

(7) in paragraph (11)—

(A) by striking "child protection" each place that such term appears and inserting "child and family protection"; and

(B) in subparagraph (D), by striking "sufficient".

Subtitle A—General Program

SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

Section 101 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended to read as follows:

"SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

"(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.".

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended to read as follows:

"SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

"(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

"(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(1) law (including the judiciary);

"(2) psychology (including child development);

"(3) social services (including child protective services);

"(4) medicine (including pediatrics);

"(5) State and local government;

"(6) organizations providing services to disabled persons;

"(7) organizations providing services to adolescents;

"(8) teachers;

"(9) parent self-help organizations;

"(10) parents' groups;

"(11) voluntary groups;

"(12) family rights groups; and

"(13) children's rights advocates.

"(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

"(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

"(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

"(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

"(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

"(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.".

SEC. 103. REPEAL OF INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

Section 103 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is repealed.

SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended—

(1) in subsection (a), to read as follows:

"(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "Director" and inserting "Secretary";

(B) in paragraph (1)—

(i) by inserting "assessment," after "prevention,"; and

(ii) by striking ", including" and all that follows and inserting "; and";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "general population" and inserting "United States";

(ii) in subparagraph (B), by adding "and" at the end;

(iii) in subparagraph (C), by striking "; and" at the end and inserting a period; and

(iv) by striking subparagraph (D); and

(D) by striking paragraph (3); and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking "In establishing" and inserting the following:

"(1) IN GENERAL.—In establishing"; and

(ii) by striking "Director" and inserting "Secretary";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving the text of subparagraphs (A) through (D) (as redesignated) 2 ems to the right;

(C) in subparagraph (B) (as redesignated), by striking "that is represented on the task force" and inserting "involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses";

(D) in subparagraph (C) (as redesignated), by striking "State, regional" and all that follows and inserting the following: "Federal, State, regional, and local child welfare data systems which shall include—

"(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

"(ii) information on the number of deaths due to child abuse and neglect;";

(E) by redesignating subparagraph (D) (as redesignated) as subparagraph (F);

(F) by inserting after subparagraph (C) (as redesignated), the following new subparagraphs:

"(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

"(E) compile, analyze, and publish a summary of the research conducted under section 105(a); and"; and

(G) by adding at the end the following:

"(2) CONFIDENTIALITY REQUIREMENT.—In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.".

SEC. 105. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES.

(a) RESEARCH.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ", through the Center, conduct research on" and inserting ", in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on";

(B) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) the nature and scope of child abuse and neglect;";

(D) in subparagraph (B) (as so redesignated), to read as follows:

"(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;"; and

(E) in subparagraph (D) (as so redesignated)—

(i) by striking clause (ii);

(ii) in clause (iii), to read as follows:

"(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;"; and

(iii) by adding at the end the following:

"(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

"(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

"(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

"(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

"(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

"(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and

"(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "and demonstration"; and

(ii) by striking "paragraph (1)(A) and activities under section 106" and inserting "paragraph (1)"; and

(B) in subparagraph (B), by striking "and demonstration".

(b) REPEAL.—Subsection (b) of section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is repealed.

(c) TECHNICAL ASSISTANCE.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(c)) is amended—

(1) by striking "(c)" and inserting "(b)";

(2) by striking "The Secretary" and inserting: "(1) IN GENERAL.—The Secretary";

(3) by striking ", through the Center,";

(4) by inserting "State and local" before "public and nonprofit";

(5) by inserting "assessment," before "identification"; and

(6) by adding at the end thereof the following new paragraphs:

"(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under titles I and II.

"(3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.".

(d) GRANTS AND CONTRACTS.—Section 105(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(d)) is amended—

(1) by striking "(d)" and inserting "(c)"; and

(2) in paragraph (2), by striking the second sentence.

(e) PEER REVIEW.—Section 105(e) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(e)) is amended—

(1) in the heading preceding paragraph (1), by striking "(e)" and inserting "(d)";

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "establish a formal" and inserting ", in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious";

(ii) by striking "and contracts"; and

(iii) by adding at the end thereof the following new sentence: "The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect."; and

(B) in subparagraph (B)—

(i) by striking "Office of Human Development" and inserting "Administration on Children and Families"; and

(ii) by adding at the end thereof the following new sentence: "The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ", contract, or other financial assistance"; and

(B) by adding at the end thereof the following flush sentence:

"The Secretary shall award grants under this section on the basis of competitive review."; and

(4) in paragraph (3)(B), by striking "subsection (e)(2)(B)" each place it appears and inserting "paragraph (2)(B)".

(f) TECHNICAL AMENDMENT.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended in the section heading by striking "of the national center on child abuse and neglect".

SEC. 106. GRANTS FOR DEMONSTRATION PROGRAMS.

Section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—

(1) in the section heading, by striking "**OR SERVICE**";

(2) in subsection (a), to read as follows:

"(a) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:

"(1) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—

"(A) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

"(B) to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and

"(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.

"(2) MUTUAL SUPPORT PROGRAMS.—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

"(3) OTHER INNOVATIVE PROGRAMS AND PROJECTS.—

"(A) IN GENERAL.—The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

"(i) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

"(ii) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(iii) provides further investigation and intensive intervention where the child's safety is in jeopardy.

"(B) KINSHIP CARE.—The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.

"(C) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(i) for court-ordered supervised visitation between children and abusing parents; and

"(ii) to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.";

(3) by striking subsection (b);

(4) by redesignating subsection (c) as subsection (b)

(5) in subsection (b) (as redesignated)—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively; and

(6) by adding at the end the following new subsection:

"(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.".

SEC. 107. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS.

Section 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) is amended to read as follows:

"SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—

"(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;

"(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

"(B) improving legal preparation and representation, including—

"(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and

"(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;

"(3) case management and delivery of services provided to children and their families;

"(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

"(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

"(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

"(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

"(8) developing, implementing, or operating—

"(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(ii) the parents of such infants; and

"(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(i) existing social and health services;

"(ii) financial assistance; and

"(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

"(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) STATE PLAN.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

"(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

"(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

"(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

"(i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;

"(ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

"(iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

"(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

"(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to—

"(I) individuals who are the subject of the report;

"(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

"(III) child abuse citizen review panels;

"(IV) child fatality review panels;

"(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

"(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

"(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

"(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

"(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

"(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

"(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

"(II) to make recommendations to the court concerning the best interests of the child;

"(x) the establishment of citizen review panels in accordance with subsection (c);

"(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

"(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

"(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

"(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

"(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

"(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

"(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case by case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

"(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;

"(C) a description of—

"(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

"(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

"(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

"(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

"(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State

may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition; and

"(B) the term 'serious bodily injury' means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(c) CITIZEN REVIEW PANELS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

"(B) EXCEPTIONS.—

"(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of $175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.

"(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

"(2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

"(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

"(4) FUNCTIONS.—

"(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—

"(i) the State plan under subsection (b);

"(ii) the child protection standards set forth in subsection (b); and

"(iii) any other criteria that the panel considers important to ensure the protection of children, including—

"(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and

"(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

"(B) CONFIDENTIALITY.—

"(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—

"(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

"(II) shall not make public other information unless authorized by State statute.

"(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

"(5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—

"(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

"(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

"(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.

"(d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

"(1) The number of children who were reported to the State during the year as abused or neglected.

"(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

"(A) substantiated;

"(B) unsubstantiated; or

"(C) determined to be false.

"(3) Of the number of children described in paragraph (2)—

"(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

"(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

"(C) the number that were removed from their families during the year by disposition of the case.

"(4) The number of families that received preventive services from the State during the year.

"(5) The number of deaths in the State during the year resulting from child abuse or neglect.

"(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

"(7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.

"(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

"(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.

"(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.

"(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

"(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (i), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse.".

SEC. 108. REPEAL.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106b) is repealed.

SEC. 109. MISCELLANEOUS REQUIREMENTS.

Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 110. DEFINITIONS.

Section 113 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h) is amended—

(1) by striking paragraphs (1), (2), (5), and (9);

(2)(A) by redesignating paragraphs (3), (4), and (6) through (8) as paragraphs (1) through (5), respectively; and

(B) by redesignating paragraph (10) as paragraph (6);

(3) in paragraph (2) (as redesignated), to read as follows:

"(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;"; and

(4) in paragraph (4)(B) (as redesignated), by inserting ", and in cases of caretaker or interfamilial relationships, statutory rape" after "rape".

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) DISCRETIONARY ACTIVITIES.—

"(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.

"(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.".

SEC. 112. RULE OF CONSTRUCTION.

Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 115. RULE OF CONSTRUCTION.

"(a) IN GENERAL.—Nothing in this Act shall be construed—

"(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

"(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

"(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.".

SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CHILD ABUSE PREVENTION AND TREATMENT ACT.—

(1)(A) Sections 104 through 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104 through 5106a), as amended by this subtitle, are redesignated as sections 103 through 106 of such Act, respectively.

(B) Sections 109 through 114 of the Child Abuse Prevention and Treatment Act (42 U.S.C 5106c through 5106h), as amended by this subtitle, are redesignated as sections 107 through 112 of such Act, respectively.

(C) Section 115 of the Child Abuse Prevention and Treatment Act, as added by section 112 of this Act, is redesignated as section 113 of the Child Abuse Prevention and Treatment Act.

(2) Section 107 of the Child Abuse Prevention and Treatment Act (as redesignated) is amended—

(A) in subsection (a), by striking "acting through the Center and";

(B) in subsection (b)(1), by striking "sections" and inserting "section";

(C) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting a comma after "maintain"; and

(ii) in subparagraph (F), by adding a semicolon at the end; and

(D) in subsection (d)(1), by adding "and" at the end.

(3) Section 110(b) of the Child Abuse Prevention and Treatment Act (as redesignated) is amended by striking "effectiveness of—" and all that follows and inserting "effectiveness of assisted programs in achieving the objectives of section 107.".

(b) VICTIMS OF CRIME ACT OF 1984.—Section 1404A of the Victims of Crime Act of 1984 (42 U.S.C. 10603a) is amended—

(1) by striking "1402(d)(2)(D) and (d)(3)." and inserting "1402(d)(2)"; and

(2) by striking "section 4(d)" and inserting "section 109".

Subtitle B—Community-Based Family Resource and Support Grants

SEC. 121. ESTABLISHMENT OF PROGRAM.

Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

"SEC. 201. PURPOSE AND AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title—

"(1) to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and

"(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.

"(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the 'lead entity') under section 202(1) for the purpose of—

"(1) developing, operating, expanding and enhancing Statewide networks of community-based, prevention-focused, family resource and support programs that—

"(A) offer assistance to families;

"(B) provide early, comprehensive support for parents;

"(C) promote the development of parenting skills, especially in young parents and parents with very young children;

"(D) increase family stability;

"(E) improve family access to other formal and informal resources and opportunities for assistance available within communities;

"(F) support the additional needs of families with children with disabilities through respite care and other services; and

"(G) decrease the risk of homelessness;

"(2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;

"(3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program to the extent practicable given funding levels and community priorities;

"(4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, start-up, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused, family resource and support program; and

"(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

"SEC. 202. ELIGIBILITY.

"A State shall be eligible for a grant under this title for a fiscal year if—

"(1)(A) the chief executive officer of the State has designated a lead entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide network;

"(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(C) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

"(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this title (as such title was in effect on the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the chief executive officer shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);

"(2) the chief executive officer of the State provides assurances that the lead entity will provide or will be responsible for providing—

"(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

"(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and

"(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

"(3) the chief executive officer of the State provides assurances that the lead entity—

"(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, comprehensive services for children and families through the Statewide network of community-based, prevention-focused, family resource and support programs;

"(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

"(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

"SEC. 203. AMOUNT OF GRANT.

"(a) RESERVATION.—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

"(b) REMAINING AMOUNTS.—

"(1) IN GENERAL.—The Secretary shall allot the amount appropriated under section 210 for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:

"(A) 70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than $175,000 under this subparagraph).

"(B) 30 percent of such amount appropriated shall be allotted among the States by allotting to

each State an amount that bears the same proportion to such amount appropriated as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the State lead agency in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the lead agency of such States in the preceding fiscal year.

"(2) ADDITIONAL REQUIREMENT.—The Secretary shall provide allotments under paragraph (1) to the State lead entity.

"(c) ALLOCATION.—Funds allotted to a State under this section—

"(1) shall be for a 3-year period; and

"(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (a).

"SEC. 204. EXISTING GRANTS.

"(a) IN GENERAL.—Notwithstanding the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of the enactment of such Act under any program described in subsection (b), shall continue to receive funds under such program, subject to the original terms under which such funds were provided under the grant, through the end of the applicable grant cycle.

"(b) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

"(1) The Community-Based Family Resource programs under section 201 of this Act, as such section was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(2) The Family Support Center programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.), as such title was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(3) The Emergency Child Abuse Prevention Services grant program under section 107A of this Act, as such section was in effect on the day before the date of the enactment of the Human Services Amendments of 1994.

"(4) Programs under the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.

"SEC. 205. APPLICATION.

"A grant may not be made to a State under this title unless an application therefore is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 202, including—

"(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

"(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

"(3) an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

"(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

"(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

"(6) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(7) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

"(8) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other underserved or underrepresented groups;

"(9) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

"(10) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

"(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures and regulations to improve the delivery of prevention-focused, family resource and support program services to children and families; and

"(12) an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

"SEC. 206. LOCAL PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

"(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

"(2) develop a strategy to provide, over time, a continuum of preventive, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

"(3) provide—

"(A) core family resource and support services such as—

"(i) parent education, mutual support and self help, and leadership services;

"(ii) outreach services;

"(iii) community and social service referrals; and

"(iv) follow-up services;

"(B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite care services to the extent practicable; and

"(C) access to optional services, including—

"(i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;

"(ii) child care, early childhood development and intervention services;

"(iii) referral to services and supports to meet the additional needs of families with children with disabilities;

"(iv) referral to job readiness services;

"(v) referral to educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(vi) self-sufficiency and life management skills training;

"(vii) community referral services, including early developmental screening of children; and

"(viii) peer counseling;

"(4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;

"(5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and

"(6) participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network.

"(b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to effective community-based programs serving low income communities and those serving young parents or parents with young children, including community-based family resource and support programs.

"SEC. 207. PERFORMANCE MEASURES.

"A State receiving a grant under this title, through reports provided to the Secretary—

"(1) shall demonstrate the effective development, operation and expansion of a Statewide network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

"(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

"(3) shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 205(3);

"(4) shall describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this title;

"(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

"(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(7) shall describe the results of a peer review process conducted under the State program; and

"(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based, prevention-focused, family resource and support programs.

"SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

"(1) to create, operate and maintain a peer review process;

"(2) to create, operate and maintain an information clearinghouse;

"(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide networks of community-based, prevention-focused, family resource and support programs;

"(4) to create, operate and maintain a computerized communication system between lead entities; and

"(5) to fund State-to-State technical assistance through bi-annual conferences.

"SEC. 209. DEFINITIONS.

"For purposes of this title:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

"(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

"(3) FAMILY RESOURCE AND SUPPORT PROGRAM.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

"(A) provides, through direct service, the core services required under this title, including—

"(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

"(iii) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

"(iv) community and social services to assist families in obtaining community resources; and

"(v) follow-up services;

"(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite care services; and

"(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

"(i) child care, early childhood development and early intervention services;

"(ii) referral to self-sufficiency and life management skills training;

"(iii) referral to education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(iv) referral to services providing job readiness skills;

"(v) child abuse and neglect prevention activities;

"(vi) referral to services that families with children with disabilities or special needs may require;

"(vii) community and social service referral, including early developmental screening of children;

"(viii) peer counseling;

"(ix) referral for substance abuse counseling and treatment; and

"(x) help line services.

"(4) OUTREACH SERVICES.—The term 'outreach services' means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

"(5) RESPITE CARE SERVICES.—The term 'respite care services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

"(A) are in danger of abuse or neglect;

"(B) have experienced abuse or neglect; or

"(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title, $66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

SEC. 131. REPEAL OF TITLE III.

Title III of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5118 et seq.) is repealed.

Subtitle D—Miscellaneous Provisions

SEC. 141. TABLE OF CONTENTS.

The table of contents of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended to read as follows:

"Sec. 1. Short title and table of contents.
"Sec. 2. Findings.

"TITLE I—GENERAL PROGRAM

"Sec. 101. Office on Child Abuse and Neglect.
"Sec. 102. Advisory Board on Child Abuse and Neglect.
"Sec. 103. National clearinghouse for information relating to child abuse.
"Sec. 104. Research and assistance activities.
"Sec. 105. Grants to public agencies and nonprofit private organizations for demonstration programs and projects.
"Sec. 106. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 107. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
"Sec. 108. Miscellaneous requirements relating to assistance.
"Sec. 109. Coordination of child abuse and neglect programs.
"Sec. 110. Reports.
"Sec. 111. Definitions.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Rule of construction.

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

"Sec. 201. Purpose and authority.
"Sec. 202. Eligibility.
"Sec. 203. Amount of grant.
"Sec. 204. Existing grants.
"Sec. 205. Application.
"Sec. 206. Local program requirements.
"Sec. 207. Performance measures.
"Sec. 208. National network for community-based family resource programs.
"Sec. 209. Definitions.
"Sec. 210. Authorization of appropriations.

SEC. 142. REPEALS OF OTHER LAWS.

(a) TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986.—The Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

(b) FAMILY SUPPORT CENTERS.—Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) is repealed.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

SEC. 201. STATE DEMONSTRATION GRANTS.

Section 303(e) of the Family Violence Prevention and Services Act (42 U.S.C. 10420(e)) is amended—

(1) by striking "following local share" and inserting "following non-Federal matching local share"; and

(2) by striking "20 percent" and all that follows through "private sources." and inserting "with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent.".

SEC. 202. ALLOTMENTS.

Section 304(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10403(a)(1)) is amended by striking "$200,000" and inserting "$400,000".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) in subsection (b), by striking "80" and inserting "70"; and

(2) by adding at the end thereof the following new subsections:

"(d) GRANTS FOR STATE COALITIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

"(e) NON-SUPPLANTING REQUIREMENT.—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.".

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

SEC. 211. FINDINGS AND PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "50 percent between 1985 and 1990" and inserting "61 percent between 1986 and 1994"; and

(ii) by striking "400,000 children at the end of June, 1990" and inserting "452,000 as of June 1994";

(B) in paragraph (5), by striking "local" and inserting "legal"; and

(C) in paragraph (7), to read as follows:

"(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

"(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

"(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;"; and

(2) in subsection (b)—

(A) by striking "conditions, by—" and all that follows through "Department of Health and Human Services to—" and inserting "conditions, by providing a mechanism to—"; and

(B) by redesignating subparagraphs (A) through (C) of paragraph (2), as paragraphs (1) through (3), respectively, and by realigning the margins of such paragraphs accordingly.

SEC. 212. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) in subsection (a), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (6), to read as follows:

"(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;";

(B) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(C) by inserting after paragraph (6), the following new paragraph:

"(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based and other organizations), or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;"; and

(3) in subsection (d)(2)—

(A) by striking "Each" and inserting "(A) Each";

(B) by striking "for each fiscal year" and inserting "that describes the manner in which the State will use funds during the 3-fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be"; and

(C) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

"(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

"(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.".

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—

(1) in subsection (a), by striking "$10,000,000" and all that follows through "203(c)(1)" and inserting "$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

Subtitle C—Abandoned Infants Assistance Act of 1988

SEC. 221. PRIORITY REQUIREMENT.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following:

"(h) PRIORITY REQUIREMENT.—In making grants under subsection (a), the Secretary shall give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.".

SEC. 222. REAUTHORIZATION.

Section 104(a)(1) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "$20,000,000" and all that follows and inserting "$35,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle D—Reauthorization of Various Programs

SEC. 231. MISSING CHILDREN'S ASSISTANCE ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "To" and inserting "(a) IN GENERAL.—To"

(2) by striking "1993, 1994, 1995, and 1996" and inserting "1997 through 2001"; and

(3) by adding at the end the following new subsection:

"(b) EVALUATION.—The Administrator may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.".

(b) SPECIAL STUDY AND REPORT.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.

SEC. 232. VICTIMS OF CHILD ABUSE ACT OF 1990.

Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000"; and

(2) in subsection (b)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000".

Mr. COATS. Mr. President, child abuse is a critical issue facing our Nation. Each year, close to one million children are abused or neglected and as a result, in need of assistance and out of home care.

While these numbers are staggering, we should also be concerned by the nearly 2 million false or unsubstantiated reports of child abuse and neglect that are filed wrongfully and in some cases maliciously. What this means is that case workers, who are already over worked, are conducting 2 million investigations at some level, possibly resulting in inappropriate interventions—including removal of the children from their homes.

Members of the Labor Committee may recall the testimony of Jim Wade who spoke of his 3-year ordeal, in which his daughter was wrongfully removed from his home. I have received many such reports and complaints, and while we should be mindful not to legislate by anecdote, these stories involve real people and are chilling.

I am also reminded of the tragic case of Elisa Izquierdo of Brooklyn, the 6-year-old girl brutally murdered by her mother on the day before Thanksgiving this past year. Elisa was well known to the overburdened case workers who were assigned to monitor her, however it appears that they simply did not have enough time to keep a close watch on Elisa, nor maybe enough training to realize the tremendous seriousness of her situation.

Each of us unfortunately, can share similar stories from our States and communities. Each of us can point to a child whose life ended far too early, and then tragically—at the hands of a loved one.

The legislation that the Senate will shortly vote on, S. 919, will not solve the epidemic of child abuse and neglect. That solution rests with families and communities. But it will better enable caseworkers to do their jobs and protect children who are in serious jeopardy. By focusing on better training and the use of risk assessment procedures S. 919 will help to improve the safety of children and will in significant and positive ways, improve the way we respond to an investigate reports of child abuse and neglect.

First, in order to protect individuals from false reports S. 919 eliminates current law's blanket immunity from prosecution for persons making knowingly false allegations of child abuse or neglect. On good faith reports will be protected by immunity.

Second, in order to ensure citizen participation and public accountability of State and local child protection agencies, we have required each State receiving funds under this act to establish citizen review panels to evaluate the extent to which child protection agencies are effectively discharging their child protection responsibilities and to review the facts surrounding local child fatalities or near fatalities resulting from abuse or neglect.

Third, S. 919 protects children at risk of abuse by eliminating the requirement that States seek to preserve families and reunify children with parents who abuse or neglect them. States would no longer have to pursue reunification with surviving children where a parent was convicted of murder, voluntary manslaughter or felony homicide of another child.

Additionally, States would be required to include murder, voluntary manslaughter, and felony assault as a statutory ground for termination of parental rights. The decision to pursue termination or to seek reunification in these cases would be determined by the State on a case-by-case basis.

Finally, S. 919 includes a new provision requiring States to have procedures for expedited termination of parental rights in cases involving abandoned infants.

These changes in the law have been sorely needed and will result in a more cohesive child protection system, with an enhanced ability to respond to the very serious problems of abuse and neglect.

One of the other important sections of CAPTA is its research component. S. 919 streamlines and better targets limited research dollars into areas with the most promise, in terms of responding to child abuse. Additionally, we have revised CAPTA's research demonstration program to focus on innovative and effective new approaches in

the area of child protection. Kinship care is such an approach. S. 919 authorizes the Department of Health and Human Services to conduct a 10-State demonstration of kinship care programs and to report back with recommendations concerning its possible expansion. Kinship care has been shown in several States to be a very effective and compassionate alternative to foster care.

Similar programs in other States have been less successful. The kinship care demonstration will enable us to ascertain where this program works and why and what we need to do to avoid any possible negative consequences.

Finally, we have clarified the definition of child abuse or neglect to include at a minimum, acts which result in death or serious physical or emotional harm or which present an imminent risk of serious harm. This definition provides additional guidance to States and should assist them as they endeavor to protect children from abuse and neglect.

S. 919 also reauthorizes several other important programs: The community and family resource grants which significantly consolidates the community based prevention grant, respite care program, and family resource programs into one cohesive network; reauthorizes The Family Violence Prevention and Services Act which provides assistance to States to help victims of domestic violence; reauthorizes The Adoption Opportunities Act which supports aggressive efforts to strengthen the capacity of States to find permanent homes for children with special needs; The Abandoned Infants Assistance Act which provides for the needs of children who are abandoned, especially those with aids; The Children's Justice Act; The Missing Children's Assistance Act and section 214 of the Victims of Child Abuse Act.

Mr. President, as we are moving toward passage of this legislation I wanted to take the time to thank several colleagues for their tireless efforts: Senator KASSEBAUM, Senator DODD, and Senator KENNEDY. We have worked together over the last year and a half in a truly bipartisan fashion and I think we have produced a very good product. I would also like to acknowledge the significant contributions of their staffs, Kimberly Barnes-O'Connor and Rebecca Jones with Senator KASSEBAUM, Michael Iskowitz and Jeffrey Teitz with Senator KENNEDY, Jane Lowenson and Brook Byers-Goldman with Senator DODD, and Stephanie Monroe and Townsend Lange of my staff. Thank you all for the hard work you have done on this legislation.

Mr. President, at this time I would like to ask unanimous consent that a colloquy between myself and Senator DODD on the issue of medical neglect be inserted into the RECORD as if read.

Mr. DODD. Mr. President, I rise in support of the Child Abuse Prevention and Treatment Act of 1996. I am very pleased that this has been a bipartisan effort. This bill comes at a very critical time. Just last week the results of the National Incidence Study conducted by the National Center on Child Abuse and Neglect showed an alarming increase in the incidence of child abuse and neglect. Since 1986 the number of abused and neglected children has almost doubled. Physical abuse has nearly doubled and sexual abuse has more than doubled. Additionally the study indicates that children from families with incomes below $15,000 are 22 times more likely to be victims of child abuse and neglect than are those children from families with incomes above $30,000.

Mr. President, I am concerned that the welfare reform bill signed into law last month may lead to an increase in cases of child abuse and neglect. That legislation left no safety net for children whose parents had reached their 5-year limit on public assistance. I intend to watch this issue very closely.

The good news is that today we are asking the Senate to consider, by unanimous consent, the reauthorization of the Child Abuse Prevention and Treatment Act, S. 919. First enacted in 1974, this legislation provides, among other things, Federal financial assistance for identifying, preventing, and treating child abuse and neglect. This bill affirms a clear Federal role in addressing prevention and treatment of child abuse. Further, it recognizes the importance of Federal leadership in funding research, training, technical assistance, and data collection to help aid the States to do their jobs better. It also continues support to States to improve child protective service systems.

Finally, I am pleased that the bill reauthorizes and enhances the Family Resource and Support Center Program that I authored in 1990 and expanded in the Human Services Act in 1994. The Family Resource Services are essential to prevention and allow families to meet their needs to avoid problems that propel them into crisis down the road.

I thank Senator COATS for all his hard work and cooperation on the reauthorization of this bill. I am very pleased that this has been a bipartisan effort.

Mr. President, it is my understanding that under CAPTA, States have been allowed to exempt parents from prosecution on grounds of medical neglect if the parent was employing alternative means of healing as part of the parent's religious practice. CAPTA also has required States to have procedures in place to report, investigate and intervene in situations where children are being denied medical care needed to prevent harm.

Mr. COATS. That is correct. The two provisions you have described have caused problems for some States. The Department of Health and Human Services has moved to disqualify certain States from CAPTA funding based on the State's accommodation of the religious treatment in lieu of medical treatment.

Mr. DODD. And it is my further understanding that we have clarified that issue in the Rule of Construction in the bill before us.

Mr. COATS. Yes, we have. After a very lengthy negotiation we have reached a compromise which will both protect children in need of medical intervention while ensuring that the first amendment rights of parents to practice their religion are not infringed upon. Under this bill, no parent or legal guardian is required to provide a child with medical service or treatment against their religious beliefs, nor is any State required to find, or prohibited from finding, abuse or neglect cases where the parent or guardian relied solely or partially upon spiritual means rather than medical treatment in accordance with their religious beliefs.

Mr. DODD. Does the bill address the State's authority to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions?

Mr. COATS. Yes it does. In addition, the bill gives States sole discretion over case-by-case determinations relating to the exercise of authority in this area. No State is foreclosed from considering parents use of treatment by spiritual means. No State is required to prosecute parents in this area. But every State must have in place the authority to intervene to protect children in need. Let me also state that nothing in this bill should be interpreted as discouraging the reporting of suspected incidences of medical neglect to child protection services, where warranted.

Mr. DODD. I also see that a new section has been added that requires the States to include in their State laws, as statutory grounds for the termination of parental rights, convictions of parents for certain specified crimes against children. It also eliminates a Federal mandate that States must seek reunification of the convicted parent with surviving children. Given the crimes that have been specified—murder, voluntary manslaughter, and felony assault—it appears that what we are addressing is a parent who deliberately takes the life or seriously injures his child.

Mr. COATS. That is correct. This section is intended to give the States flexibility in this area by not requiring them to seek to reunify a parent convicted of a serious and violent crime

against his child, with that surviving child or other children. States may still seek to reunify the family but will no longer be required to do so by Federal law. Second, the bill provides that these very serious crimes should be grounds in State law for the termination of parental rights. Any decision, however, to terminate parental rights, even in these cases, is entirely a State issue and remains so under this bill.

Mr. DODD. Would States be allowed to consider a parent's motive when deciding to terminate parental rights or to seek reunification of that family? And could this include sincerely held religious beliefs of the parent?

Mr. COATS. Yes. Since this is entirely a matter of State law, States are free to consider whatever mitigating circumstances they would like.

Mr. DODD. Mr. President, it is my understanding that concerns have been raised regarding outreach services that grantees must make to various communities. It is my understanding that when grantees engage in outreach activities, they must ensure that they maximize the participation of racial and ethnic minorities and members of underserved or underrepresented groups. I just want to ascertain that this list envisions inclusion of immigrant communities.

Mr. COATS. That is correct.

Mr. NICKLES. I ask unanimous consent that the Senate concur to the amendment of the House.

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

WATER DESALINIZATION RESEARCH AND DEVELOPMENT ACT OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 811) a bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 811) entitled "An Act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalination Act of 1996".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DESALINATION OR DESALTING.—The terms "desalination" or "desalting" mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.

(2) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(3) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) USABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF RESEARCH AND STUDIES.

(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—

(1) investigating desalination processes;

(2) ascertaining the optimum mix of investment and operating costs;

(3) determining the best designs for different conditions of operation;

(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;

(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts;

(6) studying methods for the recovery of byproducts resulting from desalination to offset the costs of treatment and to reduce environmental impacts from those byproducts; and

(7) salinity modeling and toxicity analysis of brine discharges, cost reduction strategies for constructing and operating desalination facilities, and the horticultural effects of desalinated water used for irrigation.

(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.

(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.

(d) ALTERNATIVE TECHNOLOGIES.—In carrying out the purposes of this Act, the Secretary shall ensure that at least three separate technologies are evaluated and demonstrated for the purposes of accomplishing desalination.

SEC. 4. DESALINATION DEMONSTRATION AND DEVELOPMENT.

(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes investigated either independently or in research conducted pursuant to section 3, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:

(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.

(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.

(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.

(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

SEC. 5. AVAILABILITY OF INFORMATION.

All information from studies sponsored or funded under authority of this Act shall be considered public information.

SEC. 6. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary may—

(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and

(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.

SEC. 7. COST SHARING.

The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. A Federal contribution in excess of 25 percent for a project carried out under this Act may not be made unless the Secretary determines that the project is not feasible without such increased Federal contribution. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 3.—There are authorized to be appropriated to carry out section 3 of this Act $5,000,000 per year for fiscal years 1997 through 2002. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education, including United States-Mexico binational research foundations and interuniversity research programs established by the two countries, for research grants without any cost-sharing requirement.

(b) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $25,000,000 for fiscal years 1997 through 2002.

SEC. 9. CONSULTATION.

In carrying out the provisions of this Act, the Secretary shall consult with the heads of other

Federal agencies, including the Secretary of the Army, which have experience in conducting desalination research or operating desalination facilities. The authorization provided for in this Act shall not prohibit other agencies from carrying out separately authorized programs for desalination research or operations.

Mr. NICKLES. I ask unanimous consent that the Senate concur in the amendments of the House, and I move to reconsider and lay on the table that action.

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

AMENDING THE CLEAN AIR ACT

Mr. NICKLES. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2988 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2988) to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of EPA rules.

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

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

Mr. NICKLES. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at this point in the RECORD.

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

AMENDMENTS TO THE UNITED STATES-ISRAEL FREE TRADE IMPLEMENTATION ACT

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 404, H.R. 3074.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3074), to amend the United States-Israel Free Trade Area Implementation Act of 1985, to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone, reported with an amendment.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.

TITLE I—EXTENSION OF FREE TRADE TO WEST BANK AND GAZA

Sec. 101. Additional proclamation authority.

TITLE II—APPROVAL AND IMPLEMENTATION OF OECD SHIPBUILDING AGREEMENT

Subtitle A—General Provisions

Sec. 201. Short title.
Sec. 202. Approval of the Shipbuilding Agreement.
Sec. 203. Injurious pricing and countermeasures relating to shipbuilding.
Sec. 204. Enforcement of countermeasures.
Sec. 205. Judicial review in injurious pricing and countermeasure proceedings.

Subtitle B—Other Provisions

Sec. 211. Equipment and repair of vessels.
Sec. 212. Effect of agreement with respect to private remedies.
Sec. 213. Implementing regulations.
Sec. 214. Amendments to the Merchant Marine Act, 1936.

Subtitle C—Effective Date

Sec. 221. Effective date.

TITLE III—GENERALIZED SYSTEM OF PREFERENCES

Sec. 301. Short title.
Sec. 302. Generalized system of preferences.
Sec. 303. Effective date.
Sec. 304. Conforming amendments.

TITLE IV—REVENUE OFFSETS

Sec. 400. Amendment of 1986 Code.

Subtitle A—Foreign Trust Tax Compliance

Sec. 401. Improved information reporting on foreign trusts.
Sec. 402. Comparable penalties for failure to file return relating to transfers to foreign entities.
Sec. 403. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 404. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 405. Information reporting regarding foreign gifts.
Sec. 406. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 407. Residence of trusts, etc.

Subtitle B—International Shipping Income Disclosure

Sec. 411. Penalties for failure to disclose position that certain international shipping income is not includible in gross income.

TITLE I—EXTENSION OF FREE TRADE TO WEST BANK AND GAZA

SEC. 101. ADDITIONAL PROCLAMATION AUTHORITY.

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) is amended by adding at the end the following new section:

"SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

"(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

"(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

"(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

"(3) the sum of—

"(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

"(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone,

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

"(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

"(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

"(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

"(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

"(i) the manufacturer's actual cost for the materials;

"(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

"(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

"(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

"(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

"(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

"(ii) an amount for profit; and

"(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

"(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

"(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

"(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

"(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

"(iv) Costs of inspecting and testing the article.

"(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

"(i) profit; and

"(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

"(5) IMPORTED DIRECTLY.—For purposes of this section—

"(A) articles are 'imported directly' if—

"(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

"(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

"(i) remain under the control of the customs authority in an intermediate country;

"(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

"(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

"(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

"(A) the importer certifies that the article meets the conditions for the duty exemption; and

"(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

"(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

"(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

"(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

"(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

"(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

"(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

"(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

"(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

"(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

"(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

"(3) has been specified by the President as a qualifying industrial zone.".

TITLE II—APPROVAL AND IMPLEMENTATION OF OECD SHIPBUILDING AGREEMENT

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "OECD Shipbuilding Agreement Act".

SEC. 202. APPROVAL OF THE SHIPBUILDING AGREEMENT.

The Congress approves The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry (hereafter in this title referred to as the "Shipbuilding Agreement"), a reciprocal trade agreement which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

SEC. 203. INJURIOUS PRICING AND COUNTERMEASURES RELATING TO SHIPBUILDING.

The Tariff Act of 1930 is amended by adding at the end the following new title:

"TITLE VIII—INJURIOUS PRICING AND COUNTERMEASURES RELATING TO SHIPBUILDING

"Subtitle A—Imposition of Injurious Pricing Charge and Countermeasures

"Sec. 801. Injurious pricing charge.
"Sec. 802. Procedures for initiating an injurious pricing investigation.
"Sec. 803. Preliminary determinations.
"Sec. 804. Termination or suspension of investigation.
"Sec. 805. Final determinations.
"Sec. 806. Imposition and collection of injurious pricing charge.
"Sec. 807. Imposition of countermeasures.
"Sec. 808. Injurious pricing petitions by third countries.

"Subtitle B—Special Rules

"Sec. 821. Export price.
"Sec. 822. Normal value.
"Sec. 823. Currency conversion.

"Subtitle C—Procedures

"Sec. 841. Hearings.
"Sec. 842. Determinations on the basis of the facts available.
"Sec. 843. Access to information.
"Sec. 844. Conduct of investigations.
"Sec. 845. Administrative action following shipbuilding agreement panel reports.

"Subtitle D—Definitions

"Sec. 861. Definitions.

"Subtitle A—Imposition of Injurious Pricing Charge and Countermeasures

"SEC. 801. INJURIOUS PRICING CHARGE.

"(a) BASIS FOR CHARGE.—If—

"(1) the administering authority determines that a foreign vessel has been sold directly or indirectly to one or more United States buyers at less than its fair value, and

"(2) the Commission determines that—

"(A) an industry in the United States—

"(i) is or has been materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of such vessel, then there shall be imposed upon the foreign producer of the subject vessel an injurious pricing charge, in an amount equal to the amount by which the normal value exceeds the export price for the vessel. For purposes of this subsection and section 805(b)(1), a reference to the sale of a foreign vessel includes the creation or transfer of an ownership interest in the vessel, except for an ownership interest created or acquired solely for the purpose of providing security for a normal commercial loan.

"(b) FOREIGN VESSELS NOT MERCHANDISE.—No foreign vessel may be considered to be, or to be part of, a class or kind of merchandise for purposes of subtitle B of title VII.

"SEC. 802. PROCEDURES FOR INITIATING AN INJURIOUS PRICING INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

"(1) GENERAL RULE.—Except in the case in which subsection (d)(6) applies, an injurious pricing investigation shall be initiated whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a charge under section 801(a) exist, and whether a producer described in section 861(17)(C) would meet the criteria of subsection (b)(1)(B) for a petitioner.

"(2) TIME FOR INITIATION BY ADMINISTERING AUTHORITY.—An investigation may only be initiated under paragraph (1) within 6 months after the time the administering authority first knew or should have known of the sale of the vessel. Any period during which an investigation is initiated and pending as described in subsection (d)(6)(A) shall not be included in calculating that 6-month period.

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) IN GENERAL.—Except in a case in which subsection (d)(6) applies, an injurious pricing proceeding shall be initiated whenever an interested party, as defined in subparagraph (C), (D), (E), or (F) of section 861(17), files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subparagraph (B), (C), (D), or (E) of this paragraph, and which is accompanied by information reasonably available to the petitioner supporting those allegations and identifying the transaction concerned.

"(B) PETITIONERS DESCRIBED IN SECTION 861(17)(C).—

"(i) IN GENERAL.—If the petitioner is a producer described in section 861(17)(C), and—

"(I) if the vessel was sold through a broad multiple bid, the petition shall include information indicating that the petitioner was invited to tender a bid on the contract at issue, the petitioner actually did so, and the bid of the petitioner substantially met the delivery date and technical requirements of the bid,

"(II) if the vessel was sold through any bidding process other than a broad multiple bid and the petitioner was invited to tender a bid on the contract at issue, the petition shall include information indicating that the petitioner actually did so and the bid of the petitioner substantially met the delivery date and technical requirements of the bid, or

"(III) except in a case in which the vessel was sold through a broad multiple bid, if there is no invitation to tender a bid, the petition shall include information indicating that the petitioner was capable of building the vessel concerned and, if the petitioner knew or should have known of the proposed purchase, it made demonstrable efforts to conclude a sale with the United States buyer consistent with the delivery date and technical requirements of the buyer.

"(ii) REBUTTABLE PRESUMPTION REGARDING KNOWLEDGE OF PROPOSED PURCHASE.—For purposes of clause (i)(III), there is a rebuttable presumption that the petitioner knew or should have known of the proposed purchase if it is demonstrated that—

"(I) the majority of the producers in the industry have made efforts with the United States buyer to conclude a sale of the subject vessel, or

"(II) general information on the sale was available from brokers, financiers, classification societies, charterers, trade associations, or other entities normally involved in shipbuilding transactions with whom the petitioner had regular contacts or dealings.

"(C) PETITIONERS DESCRIBED IN SECTION 861(17)(D).—If the petitioner is an interested party described in section 861(17)(D), the petition shall include information indicating that members of the union or group of workers described in that section are employed by a producer that meets the requirements of subparagraph (B) of this paragraph.

"(D) PETITIONERS DESCRIBED IN SECTION 861(17)(E).—If the petitioner is an interested party described in section 861(17)(E), the petition shall include information indicating that a member of the association described in that section is a producer that meets the requirements of subparagraph (B) of this paragraph.

"(E) PETITIONERS DESCRIBED IN SECTION 861(17)(F).—If the petitioner is an interested party described in section 861(17)(F), the petition shall include information indicating that a member of the association described in that section meets the requirements of subparagraph (C) or (D) of this paragraph.

"(F) AMENDMENTS.—The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

"(3) DEADLINE FOR FILING PETITION.—

"(A) DEADLINE.—(i) A petitioner to which paragraph (1)(B)(i) (I) or (II) applies shall file the petition no later than the earlier of—

"(I) 6 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or

"(II) 6 months after delivery of the subject vessel.

"(ii) A petitioner to which paragraph (1)(B)(i)(III) applies shall—

"(I) file the petition no later than the earlier of 9 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or 6 months after delivery of the subject vessel, and

"(II) submit to the administering authority a notice of intent to file a petition no later than 6 months after the time that the petitioner first knew or should have known of the sale (unless the petition itself is filed within that 6-month period).

"(B) PRESUMPTION OF KNOWLEDGE.—For purposes of this paragraph, if the existence of the sale, together with general information concerning the vessel, is published in the international trade press, there is a rebuttable presumption that the petitioner knew or should have known of the sale of the vessel from the date of that publication.

"(c) ACTIONS BEFORE INITIATING INVESTIGATIONS.—

"(1) NOTIFICATION OF GOVERNMENTS.—Before initiating an investigation under either subsection (a) or (b), the administering authority shall notify the government of the exporting country of the investigation. In the case of the initiation of an investigation under subsection (b), such notification shall include a public version of the petition.

"(2) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 861(17) (C), (D), (E), or (F) before the administering authority makes its decision whether to initiate an investigation pursuant to a petition, except for inquiries regarding the status of the administering authority's consideration of the petition or a request for consultation by the government of the exporting country.

"(3) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under subsection (b)(1).

"(d) PETITION DETERMINATION.—

"(1) TIME FOR INITIAL DETERMINATION.—

"(A) IN GENERAL.—Within 45 days after the date on which a petition is filed under subsection (b), the administering authority shall, after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition—

"(i) alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subsection (b)(1) (B), (C), (D), or (E), and contains information reasonably available to the petitioner supporting the allegations; and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) CALCULATION OF 45-DAY PERIOD.—Any period in which paragraph (6)(A) applies shall not be included in calculating the 45-day period described in subparagraph (A).

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the vessel was sold at less than fair value, unless paragraph (6) applies.

"(3) NEGATIVE DETERMINATIONS.—If—

"(A) the determination under clause (i) or (ii) of paragraph (1)(A) is negative, or

"(B) paragraph (6)(B) applies,

the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the domestic industry, if—

"(i) the domestic producers or workers who support the petition collectively account for at least 25 percent of the total capacity of domestic producers capable of producing a like vessel, and

"(ii) the domestic producers or workers who support the petition collectively account for more than 50 percent of the total capacity to produce a like vessel of that portion of the domestic industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to the foreign producer or United States buyer of the subject vessel, or the domestic producer is itself the United States buyer, unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an injurious pricing charge.

"(C) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total capacity to produce a like vessel—

"(i) the administering authority shall poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(D) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 861(17) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means interested parties as defined in section 861(17) (C), (D), (E), or (F).

"(6) PROCEEDINGS BY WTO MEMBERS.—The administering authority shall not initiate an investigation under this section if, with respect to the vessel sale at issue, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party—

"(A) has been initiated and has been pending for not more than one year, or

"(B) has been completed and resulted in the imposition of antidumping measures or a negative determination with respect to whether the sale was at less than fair value or with respect to injury.

"(e) NOTIFICATION TO COMMISSION OF DETERMINATION.—The administering authority shall—

"(1) notify the Commission immediately of any determination it makes under subsection (a) or (d), and

"(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"SEC. 803. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 802(d)(3), the Commission,

within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(A) an industry in the United States—

"(i) is or has been materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of the subject vessel. If the Commission makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1) within 90 days after the date on which the petition is filed or, in the case of an investigation initiated under section 802(a), within 90 days after the date on which the Commission receives notice from the administering authority that the investigation has been initiated under such section.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) PERIOD OF INJURIOUS PRICING INVESTIGATION.—

"(A) IN GENERAL.—The administering authority shall make a determination, based upon the information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the subject vessel was sold at less than fair value.

"(B) COST DATA USED FOR NORMAL VALUE.—If cost data is required to determine normal value on the basis of a sale of a foreign like vessel that has not been delivered on or before the date on which the administering authority initiates the investigation, the administering authority shall make its determination within 160 days after the date of delivery of the foreign like vessel.

"(C) NORMAL VALUE BASED ON CONSTRUCTED VALUE.—If normal value is to be determined on the basis of constructed value, the administering authority shall make its determination within 160 days after the date of delivery of the subject vessel.

"(D) OTHER CASES.—In cases in which subparagraph (B) or (C) does not apply, the administering authority shall make its determination within 160 days after the date on which the administering authority initiates the investigation under section 802.

"(E) AFFIRMATIVE DETERMINATION BY COMMISSION REQUIRED.—In no event shall the administering authority make its determination before an affirmative determination is made by the Commission under subsection (a).

"(2) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis. For purposes of the preceding sentence, an injurious pricing margin is de minimis if the administering authority determines that the injurious pricing margin is less than 2 percent of the export price.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES OR FOR GOOD CAUSE.—

"(1) IN GENERAL.—If—

"(A) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the novelty of the issues presented, or

"(II) the nature and extent of the information required, and

"(ii) additional time is necessary to make the preliminary determination, or

"(B) a party to the investigation requests an extension and demonstrates good cause for the extension,

then the administering authority may postpone the time for making its preliminary determination.

"(2) LENGTH OF POSTPONEMENT.—The preliminary determination may be postponed under paragraph (1)(A) or (B) until not later than the 190th day after—

"(A) the date of delivery of the foreign like vessel, if subsection (b)(1)(B) applies,

"(B) the date of delivery of the subject vessel, if subsection (b)(1)(C) applies, or

"(C) the date on which the administering authority initiates an investigation under section 802, in a case in which subsection (b)(1)(D) applies.

"(3) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b)(1), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority shall—

"(1) determine an estimated injurious pricing margin, and

"(2) make available to the Commission all information upon which its determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"(e) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.

"SEC. 804. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner.

"(2) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 803(b).

"(b) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 802(a) after providing notice of such termination to all parties to the investigation.

"(c) ALTERNATE EQUIVALENT REMEDY.—The criteria set forth in subparagraphs (A) through (D) of section 806(e)(1) shall apply to any agreement that forms the basis for termination of an investigation under subsection (a) or (b).

"(d) PROCEEDINGS BY WTO MEMBERS.—

"(1) SUSPENSION OF INVESTIGATION.—The administering authority and the Commission shall suspend an investigation under this section if a WTO member that is not a Shipbuilding Agreement Party initiates an antidumping proceeding described in section 861(30)(A) with respect to the sale of the subject vessel.

"(2) TERMINATION OF INVESTIGATION.—If an antidumping proceeding described in paragraph (1) is concluded by—

"(A) the imposition of antidumping measures, or

"(B) a negative determination with respect to whether the sale is at less than fair value or with respect to injury,

the administering authority and the Commission shall terminate the investigation under this section.

"(3) CONTINUATION OF INVESTIGATION.—(A) If such a proceeding—

"(i) is concluded by a result other than a result described in paragraph (2), or

"(ii) is not concluded within one year from the date of the initiation of the proceeding,

then the administering authority and the Commission shall terminate the suspension and continue the investigation. The period in which the investigation was suspended shall not be included in calculating deadlines applicable with respect to the investigation.

"(B) Notwithstanding subparagraph (A)(ii), if the proceeding is concluded by a result described in paragraph (2)(A), the administering authority and the Commission shall terminate the investigation under this section.

"SEC. 805. FINAL DETERMINATIONS.

"(a) DETERMINATIONS BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of its preliminary determination under section 803(b), the administering authority shall make a final determination of whether the vessel which is the subject of the investigation has been sold in the United States at less than its fair value.

"(2) EXTENSION OF PERIOD FOR DETERMINATION.—

"(A) GENERAL RULE.—The administering authority may postpone making the final determination under paragraph (1) until not later than 290 days after—

"(i) the date of delivery of the foreign like vessel, in an investigation to which section 803(b)(1)(B) applies,

"(ii) the date of delivery of the subject vessel, in an investigation to which section 803(b)(1)(C) applies, or

"(iii) the date on which the administering authority initiates the investigation under section 802, in an investigation to which section 803(b)(1)(D) applies.

"(B) REQUEST REQUIRED.—The administering authority may apply subparagraph (A) if a request in writing is made by—

"(i) the producer of the subject vessel, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was affirmative, or

"(ii) the petitioner, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was negative.

"(3) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis as defined in section 803(b)(2).

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—The Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is or has been materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of the vessel with respect to which the administering authority has made an affirmative determination under subsection (a)(1).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 803(b), or

"(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then the administering authority shall—

"(A) make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information as to which confidential treatment has been given by the administering authority, and

"(B) calculate an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an injurious pricing order under section 806. If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination.

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

"(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

"SEC. 806. IMPOSITION AND COLLECTION OF INJURIOUS PRICING CHARGE.

"(a) IN GENERAL.—Within 7 days after being notified by the Commission of an affirmative determination under section 805(b), the administering authority shall publish an order imposing an injurious pricing charge on the foreign producer of the subject vessel which—

"(1) directs the foreign producer of the subject vessel to pay to the Secretary of the Treasury, or the designee of the Secretary, within 180 days from the date of publication of the order, an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel,

"(2) includes the identity and location of the foreign producer and a description of the subject vessel, in such detail as the administering authority deems necessary, and

"(3) informs the foreign producer that—

"(A) failure to pay the injurious pricing charge in a timely fashion may result in the imposition of countermeasures with respect to that producer under section 807,

"(B) payment made after the deadline described in paragraph (1) shall be subject to interest charges at the Commercial Interest Reference Rate (CIRR), and

"(C) the foreign producer may request an extension of the due date for payment under subsection (b).

"(b) EXTENSION OF DUE DATE FOR PAYMENT IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) EXTENSION.—Upon request, the administering authority may amend the order under subsection (a) to set a due date for payment or payments later than the date that is 180 days from the date of publication of the order, if the administering authority determines that full payment in 180 days would render the producer insolvent or would be incompatible with a judicially supervised reorganization. When an extended payment schedule provides for a series of partial payments, the administering authority shall specify the circumstances under which default on one or more payments will result in the imposition of countermeasures.

"(2) INTEREST CHARGES.—If a request is granted under paragraph (1), payments made after the date that is 180 days from the publication of the order shall be subject to interest charges at the CIRR.

"(c) NOTIFICATION OF ORDER.—The administering authority shall deliver a copy of the order requesting payment to the foreign producer of the subject vessel and to an appropriate representative of the government of the exporting country.

"(d) REVOCATION OF ORDER.—The administering authority—

"(1) may revoke an injurious pricing order if the administering authority determines that producers accounting for substantially all of the capacity to produce a domestic like vessel have expressed a lack of interest in the order, and

"(2) shall revoke an injurious pricing order—

"(A) if the sale of the vessel that was the subject of the injurious pricing determination is voided,

"(B) if the injurious pricing charge is paid in full, including any interest accrued for late payment,

"(C) upon full implementation of an alternative equivalent remedy described in subsection (e), or

"(D) if, with respect to the vessel sale that was at issue in the investigation that resulted in the injurious pricing order, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party has been completed and resulted in the imposition of antidumping measures.

"(e) ALTERNATIVE EQUIVALENT REMEDY.—

"(1) AGREEMENT FOR ALTERNATE REMEDY.—The administering authority may suspend an injurious pricing order if the administering authority enters into an agreement with the foreign producer subject to the order on an alternative equivalent remedy, that the administering authority determines—

"(A) is at least as effective a remedy as the injurious pricing charge,

"(B) is in the public interest,

"(C) can be effectively monitored and enforced, and

"(D) is otherwise consistent with the domestic law and international obligations of the United States.

"(2) PRIOR CONSULTATIONS AND SUBMISSION OF COMMENTS.—Before entering into an agreement under paragraph (1), the administering authority shall consult with the industry, and provide for the submission of comments by interested parties, with respect to the agreement.

"(3) MATERIAL VIOLATIONS OF AGREEMENT.—If the injurious pricing order has been suspended under paragraph (1), and the administering authority determines that the foreign producer concerned has materially violated the terms of the agreement under paragraph (1), the administering authority shall terminate the suspension.

"SEC. 807. IMPOSITION OF COUNTERMEASURES.

"(a) GENERAL RULE.—

"(1) ISSUANCE OF ORDER IMPOSING COUNTERMEASURES.—Unless an injurious pricing order is revoked or suspended under section 806 (d) or (e), the administering authority shall issue an order imposing countermeasures.

"(2) CONTENTS OF ORDER.—The countermeasure order shall—

"(A) state that, as provided in section 468, a permit to lade or unlade passengers or merchandise may not be issued with respect to vessels contracted to be built by the foreign producer of the vessel with respect to which an injurious pricing order was issued under section 806, and

"(B) specify the scope and duration of the prohibition on the issuance of a permit to lade or unlade passengers or merchandise.

"(b) NOTICE OF INTENT TO IMPOSE COUNTERMEASURES.—

"(1) GENERAL RULE.—The administering authority shall issue a notice of intent to impose countermeasures not later than 30 days before the expiration of the time for payment specified in the injurious pricing order (or extended payment provided for under section 806(b)), and shall publish the notice in the Federal Register within 7 days after issuing the notice.

"(2) ELEMENTS OF THE NOTICE OF INTENT.—The notice of intent shall contain at least the following elements:

"(A) SCOPE.—A permit to lade or unlade passengers or merchandise may not be issued with respect to any vessel—

"(i) built by the foreign producer subject to the proposed countermeasures, and

"(ii) with respect to which the material terms of sale are established within a period of 4 consecutive years beginning on the date that is 30 days after publication in the Federal Register of the notice of intent described in paragraph (1).

"(B) DURATION.—For each vessel described in subparagraph (A), a permit to lade or unlade passengers or merchandise may not be issued for a period of 4 years after the date of delivery of the vessel.

"(c) DETERMINATION TO IMPOSE COUNTERMEASURES; ORDER.—

"(1) GENERAL RULE.—The administering authority shall, within the time specified in paragraph (2), issue a determination and order imposing countermeasures.

"(2) TIME FOR DETERMINATION.—The determination shall be issued within 90 days after the date on which the notice of intent to impose countermeasures under subsection (b) is published in the Federal Register. The administering authority shall publish the determination, and the order described in paragraph (4), in the Federal Register within 7 days after issuing the

final determination, and shall provide a copy of the determination and order to the Customs Service.

"(3) CONTENT OF THE DETERMINATION.—In the determination imposing countermeasures, the administering authority shall determine whether, in light of all of the circumstances, an interested party has demonstrated that the scope or duration of the countermeasures described in subsection (b)(2) should be narrower or shorter than the scope or duration set forth in the notice of intent to impose countermeasures.

"(4) ORDER.—At the same time it issues its determination, the administering authority shall issue an order imposing countermeasures, consistent with its determination under paragraph (1).

"(d) ADMINISTRATIVE REVIEW OF DETERMINATION TO IMPOSE COUNTERMEASURES.—

"(1) REQUEST FOR REVIEW.—Each year, in the anniversary month of the issuance of the order imposing countermeasures under subsection (c), the administering authority shall publish in the Federal Register a notice providing that interested parties may request—

"(A) a review of the scope or duration of the countermeasures determined under subsection (c)(3), and

"(B) a hearing in connection with such a review.

"(2) REVIEW.—If a proper request has been received under paragraph (1), the administering authority shall—

"(A) publish notice of initiation of a review in the Federal Register not later than 15 days after the end of the anniversary month of the issuance of the order imposing countermeasures, and

"(B) review and determine whether the requesting party has demonstrated that the scope or duration of the countermeasures is excessive in light of all of the circumstances.

"(3) TIME FOR REVIEW.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of the review is published. If the determination under paragraph (2)(B) is affirmative, the administering authority shall amend the order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service. In extraordinary circumstances, the administering authority may extend the time for its determination under paragraph (2)(B) to not later than 150 days after the date on which the notice of initiation of the review is published.

"(e) EXTENSION OF COUNTERMEASURES.—

"(1) REQUEST FOR EXTENSION.—Within the time described in paragraph (2), an interested party may file with the administering authority a request that the scope or duration of countermeasures be extended.

"(2) DEADLINE FOR REQUEST FOR EXTENSION.—

"(A) REQUEST FOR EXTENSION BEYOND 4 YEARS.—If the request seeks an extension that would cause the scope or duration of countermeasures to exceed 4 years, including any prior extensions, the request for extension under paragraph (1) shall be filed not earlier than the date that is 15 months, and not later than the date that is 12 months, before the date that marks the end of the period that specifies the vessels that fall within the scope of the order by virtue of the establishment of material terms of sale within that period.

"(B) OTHER REQUESTS.—If the request seeks an extension under paragraph (1) other than one described in subparagraph (A), the request shall be filed not earlier than the date that is 6 months, and not later than a date that is 3 months, before the date that marks the end of the period referred to in subparagraph (A).

"(3) DETERMINATION.—

"(A) NOTICE OF REQUEST FOR EXTENSION.—If a proper request has been received under paragraph (1), the administering authority shall publish notice of initiation of an extension proceeding in the Federal Register not later than 15 days after the applicable deadline in paragraph (2) for requesting the extension.

"(B) PROCEDURES.—

"(i) REQUESTS FOR EXTENSION BEYOND 4 YEARS.—If paragraph (2)(A) applies to the request, the administering authority shall consult with the Trade Representative under paragraph (4).

"(ii) OTHER REQUESTS.—If paragraph (2)(B) applies to the request, the administering authority shall determine, within 90 days after the date on which the notice of initiation of the proceeding is published, whether the requesting party has demonstrated that the scope or duration of the countermeasures is inadequate in light of all of the circumstances. If the administering authority determines that an extension is warranted, it shall amend the countermeasure order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service.

"(4) CONSULTATION WITH TRADE REPRESENTATIVE.—If paragraph (3)(B)(i) applies, the administering authority shall consult with the Trade Representative concerning whether it would be appropriate to request establishment of a dispute settlement panel under the Shipbuilding Agreement for the purpose of seeking authorization to extend the scope or duration of countermeasures for a period in excess of 4 years.

"(5) DECISION NOT TO REQUEST PANEL.—If, based on consultations under paragraph (4), the Trade Representative decides not to request establishment of a panel, the Trade Representative shall inform the party requesting the extension of the countermeasures of the reasons for its decision in writing. The decision shall not be subject to judicial review.

"(6) PANEL PROCEEDINGS.—If, based on consultations under paragraph (4), the Trade Representative requests the establishment of a panel under the Shipbuilding Agreement to authorize an extension of the period of countermeasures, and the panel authorizes such an extension, the administering authority shall promptly amend the countermeasure order. The administering authority shall publish notice of the amendment in the Federal Register.

"(f) LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—

"(1) GENERAL RULE.—At least once during each 12-month period beginning on the anniversary date of a determination to impose countermeasures under this section, the administering authority shall publish in the Federal Register a list of all delivered vessels subject to countermeasures under the determination.

"(2) CONTENT OF LIST.—The list under paragraph (1) shall include the following information for each vessel, to the extent the information is available:

"(A) The name and general description of the vessel.

"(B) The vessel identification number.

"(C) The shipyard where the vessel was constructed.

"(D) The last-known registry of the vessel.

"(E) The name and address of the last-known owner of the vessel.

"(F) The delivery date of the vessel.

"(G) The remaining duration of countermeasures on the vessel.

"(H) Any other identifying information available.

"(3) AMENDMENT OF LIST.—The administering authority may amend the list from time to time to reflect new information that comes to its attention and shall publish any amendments in the Federal Register.

"(4) SERVICE OF LIST AND AMENDMENTS.—

"(A) SERVICE OF LIST.—The administering authority shall serve a copy of the list described in paragraph (1) on—

"(i) the petitioner under section 802(b),

"(ii) the United States Customs Service,

"(iii) the Secretariat of the Organization for Economic Cooperation and Development,

"(iv) the owners of vessels on the list,

"(v) the shipyards on the list, and

"(vi) the government of the country in which a shipyard on the list is located.

"(B) SERVICE OF AMENDMENTS.—The administering authority shall serve a copy of any amendments to the list under paragraph (3) or subsection (g)(3) on—

"(i) the parties listed in clauses (i), (ii), and (iii) of subparagraph (A), and

"(ii) if the amendment affects their interests, the parties listed in clauses (iv), (v), and (vi) of subparagraph (A).

"(g) ADMINISTRATIVE REVIEW OF LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—

"(1) REQUEST FOR REVIEW.—

"(A) IN GENERAL.—An interested party may request in writing a review of the list described in subsection (f)(1), including any amendments thereto, to determine whether—

"(i) a vessel included in the list does not fall within the scope of the applicable countermeasure order and should be deleted, or

"(ii) a vessel not included in the list falls within the scope of the applicable countermeasure order and should be added.

"(B) TIME FOR MAKING REQUEST.—Any request seeking a determination described in subparagraph (A)(i) shall be made within 90 days after the date of publication of the applicable list.

"(2) REVIEW.—If a proper request for review has been received, the administering authority shall—

"(A) publish notice of initiation of a review in the Federal Register—

"(i) not later than 15 days after the request is received, or

"(ii) if the request seeks a determination described in paragraph (1)(A)(i), not later than 15 days after the deadline described in paragraph (1)(B), and

"(B) review and determine whether the requesting party has demonstrated that—

"(i) a vessel included in the list does not qualify for such inclusion, or

"(ii) a vessel not included in the list qualifies for inclusion.

"(3) TIME FOR DETERMINATION.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of such review is published. If the administering authority determines that a vessel should be added or deleted from the list, the administering authority shall amend the list accordingly. The administering authority shall promptly publish in the Federal Register the determination and any such amendment to the list.

"(h) EXPIRATION OF COUNTERMEASURES.—Upon expiration of a countermeasure order imposed under this section, the administering authority shall promptly publish a notice of the expiration in the Federal Register.

"(i) SUSPENSION OR TERMINATION OF PROCEEDINGS OR COUNTERMEASURES; TEMPORARY REDUCTION OF COUNTERMEASURES.—

"(1) IF INJURIOUS PRICING ORDER REVOKED OR SUSPENDED.—If an injurious pricing order has been revoked or suspended under section 806(d) or (e), the administering authority shall, as appropriate, suspend or terminate proceedings under this section with respect to that order, or

suspend or revoke a countermeasure order issued with respect to that injurious pricing order.

"(2) IF PAYMENT DATE AMENDED.—

"(A) SUSPENSION OR MODIFICATION OF DEADLINE.—Subject to subparagraph (C), if the payment date under an injurious pricing order is amended under section 845, the administering authority shall, as appropriate, suspend proceedings or modify deadlines under this section, or suspend or amend a countermeasure order issued with respect to that injurious pricing order.

"(B) DATE FOR APPLICATION OF COUNTERMEASURE.—In taking action under subparagraph (A), the administering authority shall ensure that countermeasures are not applied before the date that is 30 days after publication in the Federal Register of the amended payment date.

"(C) REINSTITUTION OF PROCEEDINGS.—If—

"(i) a countermeasure order is issued under subsection (c) before an amendment is made under section 845 to the payment date of the injurious pricing order to which the countermeasure order applies, and

"(ii) the administering authority determines that the period of time between the original payment date and the amended payment date is significant for purposes of determining the appropriate scope or duration of countermeasures,

the administering authority may, in lieu of acting under subparagraph (A), reinstitute proceedings under subsection (c) for purposes of issuing a new determination under that subsection.

"(j) COMMENT AND HEARING.—In the course of any proceeding under subsection (c), (d), (e), or (g), the administering authority—

"(1) shall solicit comments from interested parties, and

"(2)(A) in a proceeding under subsection (c), (d), or (e), upon the request of an interested party, shall hold a hearing in accordance with section 841(b) in connection with that proceeding, or

"(B) in a proceeding under subsection (g), upon the request of an interested party, may hold a hearing in accordance with section 841(b) in connection with that proceeding.

"SEC. 808. INJURIOUS PRICING PETITIONS BY THIRD COUNTRIES.

"(a) FILING OF PETITION.—The government of a Shipbuilding Agreement Party may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

"(1) a vessel from another Shipbuilding Agreement Party has been sold directly or indirectly to one or more United States buyers at less than fair value, and

"(2) an industry, in the petitioning country, producing or capable of producing a like vessel is materially injured by reason of such sale.

"(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the Parties Group under the Shipbuilding Agreement, shall determine whether to initiate an investigation described in subsection (a).

"(c) DETERMINATIONS.—Upon initiation of an investigation under subsection (a), the Trade Representative shall request the following determinations be made in accordance with substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

"(1) SALE AT LESS THAN FAIR VALUE.—The administering authority shall determine whether the subject vessel has been sold at less than fair value.

"(2) INJURY TO INDUSTRY.—The Commission shall determine whether an industry in the petitioning country is or has been materially injured by reason of the sale of the subject vessel in the United States.

"(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—

"(1) by the Trade Representative, in making the determinations required by subsection (b), and

"(2) by the administering authority and the Commission, in making the determinations required by subsection (c).

"(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall—

"(1) order an injurious pricing charge in accordance with section 806, and

"(2) make such determinations and take such other actions as are required by sections 806 and 807, as if affirmative determinations had been made under subsections (a) and (b) of section 805.

"(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516B, if an order is issued under subsection (e)—

"(1) the final determinations of the administering authority and the Commission under subsection (c) shall be treated as final determinations made under section 805, and

"(2) determinations of the administering authority under subsection (e)(2) shall be treated as determinations made under section 806 or 807, as the case may be.

"(g) ACCESS TO INFORMATION.—Section 843 shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.

"Subtitle B—Special Rules

"SEC. 821. EXPORT PRICE.

"(a) EXPORT PRICE.—For purposes of this title, the term 'export price' means the price at which the subject vessel is first sold (or agreed to be sold) by or for the account of the foreign producer of the subject vessel to an unaffiliated United States buyer. The term 'sold (or agreed to be sold) by or for the account of the foreign producer' includes any transfer of an ownership interest, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, to a United States buyer.

"(b) ADJUSTMENTS TO EXPORT PRICE.—The price used to establish export price shall be—

"(1) increased by the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject vessel, and

"(2) reduced by—

"(A) the amount, if any, included in such price, attributable to any additional costs, charges, or expenses which are incident to bringing the subject vessel from the shipyard in the exporting country to the place of delivery,

"(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject vessel, and

"(C) all other expenses incidental to placing the vessel in condition for delivery to the buyer.

"SEC. 822. NORMAL VALUE.

"(a) DETERMINATION.—In determining under this title whether a subject vessel has been sold at less than fair value, a fair comparison shall be made between the export price and normal value of the subject vessel. In order to achieve a fair comparison with the export price, normal value shall be determined as follows:

"(1) DETERMINATION OF NORMAL VALUE.—

"(A) IN GENERAL.—The normal value of the subject vessel shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price under section 821(a).

"(B) PRICE.—The price referred to in subparagraph (A) is—

"(i) the price at which a foreign like vessel is first sold in the exporting country, in the ordinary course of trade and, to the extent practicable, at the same level of trade, or

"(ii) in a case to which subparagraph (C) applies, the price at which a foreign like vessel is so sold for consumption in a country other than the exporting country or the United States, if—

"(I) such price is representative, and

"(II) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price.

"(C) THIRD COUNTRY SALES.—This subparagraph applies when—

"(i) a foreign like vessel is not sold in the exporting country as described in subparagraph (B)(i), or

"(ii) the particular market situation in the exporting country does not permit a proper comparison with the export price.

"(D) CONTEMPORANEOUS SALE.—For purposes of subparagraph (A), 'a time reasonably corresponding to the time of the sale' means within 3 months before or after the sale of the subject vessel or, in the absence of such sales, such longer period as the administering authority determines would be appropriate.

"(2) FICTITIOUS MARKETS.—No pretended sale, and no sale intended to establish a fictitious market, shall be taken into account in determining normal value.

"(3) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject vessel cannot be determined under paragraph (1)(B) or (1)(C), then the normal value of the subject vessel shall be the constructed value of that vessel, as determined under subsection (e).

"(4) INDIRECT SALES.—If a foreign like vessel is sold through an affiliated party, the price at which the foreign like vessel is sold by such affiliated party may be used in determining normal value.

"(5) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

"(A) reduced by—

"(i) the amount, if any, included in the price described in paragraph (1)(B), attributable to any costs, charges, and expenses incident to bringing the foreign like vessel from the shipyard to the place of delivery to the purchaser,

"(ii) the amount of any taxes imposed directly upon the foreign like vessel or components thereof which have been rebated, or which have not been collected, on the subject vessel, but only to the extent that such taxes are added to or included in the price of the foreign like vessel, and

"(iii) the amount of all other expenses incidental to placing the foreign like vessel in condition for delivery to the buyer, and

"(B) increased or decreased by the amount of any difference (or lack thereof) between the export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

"(i) physical differences between the subject vessel and the vessel used in determining normal value, or

"(ii) other differences in the circumstances of sale.

"(6) ADJUSTMENTS FOR LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the

export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price and normal value, if the difference in level of trade—

"(A) involves the performance of different selling activities, and

"(B) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

"(7) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (e) may be adjusted, as appropriate, pursuant to this subsection.

"(b) SALES AT LESS THAN COST OF PRODUCTION.—

"(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the foreign like vessel, the administering authority shall determine whether, in fact, such sale was made at less than the cost of production. If the administering authority determines that the sale was made at less than the cost of production and was not at a price which permits recovery of all costs within 5 years, such sale may be disregarded in the determination of normal value. Whenever such a sale is disregarded, normal value shall be based on another sale of a foreign like vessel in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the subject vessel.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that the sale of a foreign like vessel was made at a price that is less than the cost of production of the vessel, if an interested party described in subparagraph (C), (D), (E), or (F) of section 861(17) provides information, based upon observed prices or constructed prices or costs, that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the vessel.

"(B) RECOVERY OF COSTS.—If the price is below the cost of production at the time of sale but is above the weighted average cost of production for the period of investigation, such price shall be considered to provide for recovery of costs within 5 years.

"(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this section, the cost of production shall be an amount equal to the sum of—

"(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like vessel, during a period which would ordinarily permit the production of that vessel in the ordinary course of business, and

"(B) an amount for selling, general, and administrative expenses based on actual data pertaining to the production and sale of the foreign like vessel by the producer in question.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like vessel sold in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or on their disposition which are remitted or refunded upon exportation.

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the subject vessel is produced in a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the normal value of the subject vessel to be determined under subsection (a),

the administering authority shall determine the normal value of the subject vessel on the basis of the value of the factors of production utilized in producing the vessel and to which shall be added an amount for general expenses and profit plus the cost of expenses incidental to placing the vessel in a condition for delivery to the buyer. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of the subject vessel under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which a vessel that is—

"(A) comparable to the subject vessel, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing the vessel include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable vessels.

"(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) the subject vessel was produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of a foreign like vessel which are located in another country or countries,

"(2) subsection (a)(1)(C) applies, and

"(3) the normal value of a foreign like vessel produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like vessel produced in the facilities located in the exporting country,

the administering authority shall determine the normal value of the subject vessel by reference to the normal value at which a foreign like vessel is sold from one or more facilities outside the exporting country. The administering authority, in making any determination under this subsection, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of the foreign like vessel produced in facilities outside the exporting country and costs of production of the foreign like vessel produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction.

"(e) CONSTRUCTED VALUE.—

"(1) IN GENERAL.—For purposes of this title, the constructed value of a subject vessel shall be an amount equal to the sum of—

"(A) the cost of materials and fabrication or other processing of any kind employed in producing the subject vessel, during a period which would ordinarily permit the production of the vessel in the ordinary course of business, and

"(B)(i) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic market of the country of origin of the subject vessel, or

"(ii) if actual data are not available with respect to the amounts described in clause (i), then—

"(I) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of the same general category of vessel in the domestic market of the country of origin of the subject vessel,

"(II) the weighted average of the actual amounts incurred and realized by producers in the country of origin of the subject vessel (other than the producer of the subject vessel) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic market, or

"(III) if data are not available under subclause (I) or (II), the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by foreign producers (other than the producer of the subject vessel) in connection with the sale of vessels in the same general category of vessel as the subject vessel in the domestic market of the country of origin of the subject vessel.

For purposes of this paragraph, the profit shall be based on the average profit realized over a reasonable period of time before and after the sale of the subject vessel and shall reflect a reasonable profit at the time of such sale. For purposes of the preceding sentence, a 'reasonable period of time' shall not, except where otherwise appropriate, exceed 6 months before, or 6 months after, the sale of the subject vessel. In calculating profit under this paragraph, any distortion which would result in other than a profit which is reasonable at the time of the sale shall be eliminated.

"(2) COSTS AND PROFITS BASED ON OTHER REASONABLE METHODS.—When costs and profits are determined under paragraph (1)(B)(ii)(III), such determination shall, except where otherwise appropriate, be based on appropriate export sales by the producer of the subject vessel or, absent such sales, to export sales by other producers of a foreign like vessel or the same general category of vessel as the subject vessel in the country of origin of the subject vessel.

"(3) COSTS OF MATERIALS.—For purposes of paragraph (1)(A), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject vessel produced from such materials.

"(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e)—

"(1) COSTS.—

"(A) IN GENERAL.—Costs shall normally be calculated based on the records of the foreign producer of the subject vessel, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the vessel. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the foreign producer on a timely basis, if such allocations have been historically used by the foreign producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

"(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those nonrecurring costs that benefit current or future production, or both.

"(C) STARTUP COSTS.—

"(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation are affected by startup operations.

"(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

"(I) a producer is using new production facilities or producing a new type of vessel that requires substantial additional investment, and

"(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

"(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the vessel at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation under this title, the administering authority shall use the most recent cost of production data that it reasonably can obtain, analyze, and verify without delaying the timely completion of the investigation.

For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the vessel, the producer, or the industry is achieved.

"(D) COSTS DUE TO EXTRAORDINARY CIRCUMSTANCES NOT INCLUDED.—Costs shall not include actual costs which are due to extraordinary circumstances (including, but not limited to, labor disputes, fire, and natural disasters) and which are significantly over the cost increase which the shipbuilder could have reasonably anticipated and taken into account at the time of sale.

"(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of a like vessel in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

"(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the subject vessel, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).

"SEC. 823. CURRENCY CONVERSION.

"(a) IN GENERAL.—In an injurious pricing proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject vessel, except that if it is established that a currency transaction on forward markets is directly linked to a sale under consideration, the exchange rate specified with respect to such foreign currency in the forward sale agreement shall be used to convert the foreign currency.

"(b) DATE OF SALE.—For purposes of this section, 'date of sale' means the date of the contract of sale or, where appropriate, the date on which the material terms of sale are otherwise established. If the material terms of sale are significantly changed after such date, the date of sale is the date of such change. In the case of such a change in the date of sale, the administering authority shall make appropriate adjustments to take into account any unreasonable effect on the injurious pricing margin due only to fluctuations in the exchange rate between the original date of sale and the new date of sale.

"Subtitle C—Procedures

"SEC. 841. HEARINGS.

"(a) UPON REQUEST.—The administering authority and the Commission shall each hold a hearing in the course of an investigation under this title, upon the request of any party to the investigation, before making a final determination under section 805.

"(b) PROCEDURES.—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public. The hearing shall not be subject to the provisions of subchapter II of chapter 5 of title 5, United States Code, or to section 702 of such title.

"SEC. 842. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.

"(a) IN GENERAL.—If—

"(1) necessary information is not available on the record, or

"(2) an interested party or any other person—

"(A) withholds information that has been requested by the administering authority or the Commission under this title,

"(B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (b)(1) and (d) of section 844,

"(C) significantly impedes a proceeding under this title, or

"(D) provides such information but the information cannot be verified as provided in section 844(g),

the administering authority and the Commission shall, subject to section 844(c), use the facts otherwise available in reaching the applicable determination under this title.

"(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

"(1) the petition, or

"(2) any other information placed on the record.

"(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation under this title, the administering authority and the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.

"SEC. 843. ACCESS TO INFORMATION.

"(a) INFORMATION GENERALLY MADE AVAILABLE.—

"(1) PROGRESS OF INVESTIGATION REPORTS.—The administering authority and the Commission shall, from time to time upon request, inform the parties to an investigation under this title of the progress of that investigation.

"(2) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

"(A) interested parties or other persons providing factual information in connection with a proceeding under this title, and

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.

"(3) SUMMARIES; NONPROPRIETARY SUBMISSIONS.—The administering authority and the Commission shall disclose—

"(A) any proprietary information received in the course of a proceeding under this title if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and

"(B) any information submitted in connection with a proceeding which is not designated as proprietary by the person submitting it.

"(4) MAINTENANCE OF PUBLIC RECORD.—The administering authority and the Commission shall maintain and make available for public inspection and copying a record of all information which is obtained by the administering authority or the Commission, as the case may be, in a proceeding under this title to the extent that public disclosure of the information is not prohibited under this chapter or exempt from disclosure under section 552 of title 5, United States Code.

"(b) PROPRIETARY INFORMATION.—

"(1) PROPRIETARY STATUS MAINTAINED.—

"(A) IN GENERAL.—Except as provided in subsection (a)(4) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

"(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any other proceeding under this title covering the same subject vessel, or

"(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

"(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

"(i) either—

"(I) a nonproprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(II) a statement that the information is not susceptible to summary, accompanied by a statement of the reasons in support of the contention, and

"(ii) either—

"(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.

"(2) UNWARRANTED DESIGNATION.—If the administering authority or the Commission determines, on the basis of the nature and extent of the information or its availability from public sources, that designation of any information as proprietary is unwarranted, then it shall notify the person who submitted it and ask for an explanation of the reasons for the designation. Unless that person persuades the administering authority or the Commission that the designation is warranted, or withdraws the designation, the administering authority or the Commission, as the case may be, shall return it to the party submitting it. In a case in which the administering authority or the Commission returns the information to the person submitting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material.

"(c) LIMITED DISCLOSURE OF CERTAIN PROPRIETARY INFORMATION UNDER PROTECTIVE ORDER.—

"(1) DISCLOSURE BY ADMINISTERING AUTHORITY OR COMMISSION.—

"(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding under this title (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to all interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during the proceeding. Customer names (other than the name of the United States buyer of the subject vessel) obtained during any investigation which requires a determination under section 805(b) may not be disclosed by the administering authority under protective order until either an order is published under section 806(a) as a result of the investigation or the investigation is suspended or terminated. The Commission may delay disclosure of customer names (other than the name of the United States buyer of the subject vessel) under protective order during any such investigation until a reasonable time before any hearing provided under section 841 is held.

"(B) PROTECTIVE ORDER.—The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

"(C) TIME LIMITATIONS ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

"(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted, or

"(ii) if—

"(I) the person that submitted the information raises objection to its release, or

"(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted.

"(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

"(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date, and

"(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

"(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.

"(2) DISCLOSURE UNDER COURT ORDER.—If the administering authority or the Commission denies a request for information under paragraph (1), then application may be made to the United States Court of International Trade for an order directing the administering authority or the Commission, as the case may be, to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that—

"(A) the administering authority or the Commission has denied access to the information under subsection (b)(1),

"(B) the person on whose behalf the information is requested is an interested party who is a party to the investigation in connection with which the information was obtained or developed, and

"(C) the party which submitted the information to which the request relates has been notified, in advance of the hearing, of the request made under this section and of its right to appear and be heard.

"(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order, except that a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

"(e) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code.

"(f) OPPORTUNITY FOR COMMENT BY VESSEL BUYERS.—The administering authority and the Commission shall provide an opportunity for buyers of subject vessels to submit relevant information to the administering authority concerning a sale at less than fair value or countermeasures, and to the Commission concerning material injury by reason of the sale of a vessel at less than fair value.

"(g) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

"(1) IN GENERAL.—Whenever the administering authority makes a determination under section 802 whether to initiate an investigation, or the administering authority or the Commission makes a preliminary determination under section 803, a final determination under section 805, a determination under subsection (b), (c), (d), (e)(3)(B)(ii), (g), or (i) of section 807, or a determination to suspend an investigation under this title, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

"(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

"(A) in the case of a determination of the administering authority—

"(i) the names of the United States buyer and the foreign producer, and the country of origin of the subject vessel,

"(ii) a description sufficient to identify the subject vessel (including type, purpose, and size),

"(iii) with respect to an injurious pricing charge, the injurious pricing margin established and a full explanation of the methodology used in establishing such margin,

"(iv) with respect to countermeasures, the scope and duration of countermeasures and, if applicable, any changes thereto, and

"(v) the primary reasons for the determination, and

"(B) in the case of a determination of the Commission—

"(i) considerations relevant to the determination of injury, and

"(ii) the primary reasons for the determination.

"(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

"(A) the administering authority shall include in a final determination under section 805 or

807(c) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation, concerning the establishment of the injurious pricing charge with respect to which the determination is made, and

"(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation concerning the effects and impact on the industry of the sale of the subject vessel.

"SEC. 844. CONDUCT OF INVESTIGATIONS.

"(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

"(b) DIFFICULTIES IN MEETING REQUIREMENTS.—

"(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

"(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

"(c) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

"(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

"(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (d), disregard all or part of the original and subsequent responses.

"(d) USE OF CERTAIN INFORMATION.—In reaching a determination under section 803, 805, or 807, the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission if—

"(1) the information is submitted by the deadline established for its submission,

"(2) the information can be verified,

"(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

"(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

"(5) the information can be used without undue difficulties.

"(e) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

"(f) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 805 or 807, shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

"(g) VERIFICATION.—The administering authority shall verify all information relied upon in making a final determination under section 805.

"SEC. 845. ADMINISTRATIVE ACTION FOLLOWING SHIPBUILDING AGREEMENT PANEL REPORTS.

"(a) ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.—

"(1) ADVISORY REPORT.—If a dispute settlement panel under the Shipbuilding Agreement finds in a report that an action by the Commission in connection with a particular proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement, the Trade Representative may request the Commission to issue an advisory report on whether this title permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel concerning those obligations. The Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such request.

"(2) TIME LIMITS FOR REPORT.—The Commission shall transmit its report under paragraph (1) to the Trade Representative within 30 calendar days after the Trade Representative requests the report.

"(3) CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representatives shall consult with the congressional committees listed in paragraph (1) concerning the matter.

"(4) COMMISSION DETERMINATION.—Notwithstanding any other provision of this title, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel. The Commission shall issue its determination not later than 120 calendar days after the request from the Trade Representative is made.

"(5) CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.—The Trade Representative shall consult with the congressional committees listed in paragraph (1) before the Commission's determination under paragraph (4) is implemented.

"(6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an injurious pricing order is no longer supported by an affirmative Commission determination under this title, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the injurious pricing order.

"(b) ACTION BY ADMINISTERING AUTHORITY.—

"(1) CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.—Promptly after a report or other determination by a dispute settlement panel under the Shipbuilding Agreement is issued that contains findings that—

"(A) an action by the administering authority in a proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement,

"(B) the due date for payment of an injurious pricing charge contained in an order issued under section 806 should be amended,

"(C) countermeasures provided for in an order issued under section 807 should be provisionally suspended or reduced pending the final decision of the panel, or

"(D) the scope or duration of countermeasures imposed under section 807 should be narrowed or shortened,

the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) on the matter.

"(2) DETERMINATION BY ADMINISTERING AUTHORITY.—Notwithstanding any other provision of this title, the administering authority shall, in response to a written request from the Trade Representative, issue a determination, or an amendment to or suspension of an injurious pricing or countermeasure order, as the case may be, in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel.

"(3) TIME LIMITS FOR DETERMINATIONS.—The administering authority shall issue its determination, amendment, or suspension under paragraph (2)—

"(A) with respect to a matter described in subparagraph (A) of paragraph (1), within 180 calendar days after the request from the Trade Representative is made, and

"(B) with respect to a matter described in subparagraph (B), (C), or (D) of paragraph (1), within 15 calendar days after the request from the Trade Representative is made.

"(4) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination, amendment, or suspension under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) with respect to such determination, amendment, or suspension.

"(5) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering authority and the congressional committees under paragraph (4), direct the administering authority to implement, in whole or in part, the determination, amendment, or suspension made under paragraph (2). The administering authority shall publish notice of such implementation in the Federal Register.

"(c) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Before issuing a determination, amendment, or suspension, the administering authority, in a matter described in subsection (b)(1)(A), or the Commission, in a matter described in subsection (a)(1), as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

"Subtitle D—Definitions

"SEC. 861. DEFINITIONS.

"For purposes of this title:

"(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the Secretary of Commerce, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this title are transferred by law.

"(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(3) COUNTRY.—The term 'country' means a foreign country, a political subdivision, dependent territory, or possession of a foreign country and, except as provided in paragraph (16)(E)(iii), may not include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

"(4) INDUSTRY.—

"(A) IN GENERAL.—Except as used in section 808, the term 'industry' means the producers as a whole of a domestic like vessel, or those producers whose collective capability to produce a domestic like vessel constitutes a major proportion of the total domestic capability to produce a domestic like vessel.

"(B) PRODUCER.—A 'producer' of a domestic like vessel includes an entity that is producing the domestic like vessel and an entity with the capability to produce the domestic like vessel.

"(C) CAPABILITY TO PRODUCE A DOMESTIC LIKE VESSEL.—A producer has the 'capability to produce a domestic like vessel' if it is capable of producing a domestic like vessel with its present facilities or could adapt its facilities in a timely manner to produce a domestic like vessel.

"(D) RELATED PARTIES.—(i) In an investigation under this title, if a producer of a domestic like vessel and the foreign producer, seller (other than the foreign producer), or United States buyer of the subject vessel are related parties, or if a producer of a domestic like vessel is also a United States buyer of the subject vessel, the domestic producer may, in appropriate circumstances, be excluded from the industry.

"(ii) For purposes of clause (i), a domestic producer and the foreign producer, seller, or United States buyer shall be considered to be related parties, if—

"(I) the domestic producer directly or indirectly controls the foreign producer, seller, or United States buyer,

"(II) the foreign producer, seller, or United States buyer directly or indirectly controls the domestic producer,

"(III) a third party directly or indirectly controls the domestic producer and the foreign producer, seller, or United States buyer, or

"(IV) the domestic producer and the foreign producer, seller, or United States buyer directly or indirectly control a third party and there is reason to believe that the relationship causes the domestic producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

"(E) PRODUCT LINES.—In an investigation under this title, the effect of the sale of the subject vessel shall be assessed in relation to the United States production (or production capability) of a domestic like vessel if available data permit the separate identification of production (or production capability) in terms of such criteria as the production process or the producer's profits. If the domestic production (or production capability) of a domestic like vessel has no separate identity in terms of such criteria, then the effect of the sale of the subject vessel shall be assessed by the examination of the production (or production capability) of the narrowest group or range of vessels, which includes a domestic like vessel, for which the necessary information can be provided.

"(5) BUYER.—The term 'buyer' means any person who acquires an ownership interest in a vessel, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, including an individual or company which owns or controls a buyer. There may be more than one buyer of any one vessel.

"(6) UNITED STATES BUYER.—The term 'United States buyer' means a buyer that is any of the following:

"(A) A United States citizen.

"(B) A juridical entity, including any corporation, company, association, or other organization, that is legally constituted under the laws and regulations of the United States or a political subdivision thereof, regardless of whether the entity is organized for pecuniary gain, privately or government owned, or organized with limited or unlimited liability.

"(C) A juridical entity that is owned or controlled by nationals or entities described in subparagraphs (A) and (B). For the purposes of this subparagraph—

"(i) the term 'own' means having more than a 50 percent interest, and

"(ii) the term 'control' means the actual ability to have substantial influence on corporate behavior, and control is presumed to exist where there is at least a 25 percent interest.

If ownership of a company is established under clause (i), other control is presumed not to exist unless it is otherwise established.

"(7) OWNERSHIP INTEREST.—An 'ownership interest' in a vessel includes any contractual or proprietary interest which allows the beneficiary or beneficiaries of such interest to take advantage of the operation of the vessel in a manner substantially comparable to the way in which an owner may benefit from the operation of the vessel. In determining whether such substantial comparability exists, the administering authority shall consider—

"(A) the terms and circumstances of the transaction which conveys the interest,

"(B) commercial practice within the industry,

"(C) whether the vessel subject to the transaction is integrated into the operations of the beneficiary or beneficiaries, and

"(D) whether in practice there is a likelihood that the beneficiary or beneficiaries of such interests will take advantage of and the risk for the operation of the vessel for a significant part of the life-time of the vessel.

"(8) VESSEL.—

"(A) IN GENERAL.—Except as otherwise specifically provided under international agreements, the term 'vessel' means—

"(i) a self-propelled seagoing vessel of 100 gross tons or more used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredgers), and

"(ii) a tug of 365 kilowatts or more,

that is produced in a Shipbuilding Agreement Party or a country that is not a Shipbuilding Agreement Party and not a WTO member.

"(B) EXCLUSIONS.—The term 'vessel' does not include—

"(i) any fishing vessel destined for the fishing fleet of the country in which the vessel is built,

"(ii) any military vessel, and

"(iii) any vessel sold before the date that the Shipbuilding Agreement enters into force with respect to the United States, except that any vessel sold after December 21, 1994, for delivery more than 5 years after the date of the contract of sale shall be a 'vessel' for purposes of this title unless the shipbuilder demonstrates to the administering authority that the extended delivery date was for normal commercial reasons and not to avoid applicability of this title.

"(C) SELF-PROPELLED SEAGOING VESSEL.—A vessel is 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.

"(D) MILITARY VESSEL.—A 'military vessel' is a vessel which, according to its basic structural characteristics and ability, is intended to be used exclusively for military purposes.

"(9) LIKE VESSEL.—The term 'like vessel' means a vessel of the same type, same purpose, and approximate size as the subject vessel and possessing characteristics closely resembling those of the subject vessel.

"(10) DOMESTIC LIKE VESSEL.—The term 'domestic like vessel' means a like vessel produced in the United States.

"(11) FOREIGN LIKE VESSEL.—Except as used in section 822(e)(1)(B)(ii)(II), the term 'foreign like vessel' means a like vessel produced by the foreign producer of the subject vessel for sale in the producer's domestic market or in a third country.

"(12) SAME GENERAL CATEGORY OF VESSEL.—The term 'same general category of vessel' means a vessel of the same type and purpose as the subject vessel, but of a significantly different size.

"(13) SUBJECT VESSEL.—The term 'subject vessel' means a vessel subject to investigation under section 801 or 808.

"(14) FOREIGN PRODUCER.—The term 'foreign producer' means the producer or producers of the subject vessel.

"(15) EXPORTING COUNTRY.—The term 'exporting country' means the country in which the subject vessel was built.

"(16) MATERIAL INJURY.—

"(A) IN GENERAL.—The term 'material injury' means harm which is not inconsequential, immaterial, or unimportant.

"(B) SALE AND CONSEQUENT IMPACT.—In making determinations under sections 803(a) and 805(b), the Commission in each case—

"(i) shall consider—

"(I) the sale of the subject vessel,

"(II) the effect of the sale of the subject vessel on prices in the United States for a domestic like vessel, and

"(III) the impact of the sale of the subject vessel on domestic producers of a domestic like vessel, but only in the context of production operations within the United States, and

"(ii) may consider such other economic factors as are relevant to the determination regarding whether there is or has been material injury by reason of the sale of the subject vessel.

In the notification required under section 805(d), the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.

"(C) EVALUATION OF RELEVANT FACTORS.—For purposes of subparagraph (B)—

"(i) SALE OF THE SUBJECT VESSEL.—In evaluating the sale of the subject vessel, the Commission shall consider whether the sale, either in absolute terms or relative to production or demand in the United States, in terms of either volume or value, is or has been significant.

"(ii) PRICE.—In evaluating the effect of the sale of the subject vessel on prices, the Commission shall consider whether—

"(I) there has been significant price underselling of the subject vessel as compared with the price of a domestic like vessel, and

"(II) the effect of the sale of the subject vessel otherwise depresses or has depressed prices to a significant degree or prevents or has prevented price increases, which otherwise would have occurred, to a significant degree.

"(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

"(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(II) factors affecting domestic prices, including with regard to sales,

"(III) actual and potential negative effects on cash flow, employment, wages, growth, ability to raise capital, and investment,

"(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and

"(V) the magnitude of the injurious pricing margin.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.

"(D) STANDARD FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.

"(E) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of the sale of the subject vessel, the Commission shall consider, among other relevant economic factors—

"(I) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased sales of a foreign like vessel to United States buyers, taking into account the availability of other export markets to absorb any additional exports,

"(II) whether the sale of a foreign like vessel or other factors indicate the likelihood of significant additional sales to United States buyers,

"(III) whether sale of the subject vessel or sale of a foreign like vessel by the foreign producer are at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further sales,

"(IV) the potential for product-shifting if production facilities in the exporting country, which can presently be used to produce a foreign like vessel or could be adapted in a timely manner to produce a foreign like vessel, are currently being used to produce other types of vessels,

"(V) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and

"(VI) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of the sale of the subject vessel.

"(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.

"(iii) EFFECT OF INJURIOUS PRICING IN THIRD-COUNTRY MARKETS.—

"(I) IN GENERAL.—The Commission shall consider whether injurious pricing in the markets of foreign countries (as evidenced by injurious pricing findings or injurious pricing remedies of other Shipbuilding Agreement Parties, or antidumping determinations of, or measures imposed by, other countries, against a like vessel produced by the producer under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign producer or United States buyer concerning this issue.

"(II) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities as a whole shall be treated as a single foreign country.

"(F) CUMULATION FOR DETERMINING MATERIAL INJURY.—

"(i) IN GENERAL.—For purposes of clauses (i) and (ii) of subparagraph (C), and subject to clause (ii) of this subparagraph, the Commission shall cumulatively assess the effects of sales of foreign like vessels from all foreign producers with respect to which—

"(I) petitions were filed under section 802(b) on the same day,

"(II) investigations were initiated under section 802(a) on the same day, or

"(III) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,

if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.

"(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the effects of sales under clause (i)—

"(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those sales before the Commission's final determination is made, or

"(II) from any producer with respect to which the investigation has been terminated.

"(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the effects of sales under clause (i), the Commission may make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.

"(G) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (F)(ii), for purposes of clause (i) (II) and (III) of subparagraph (E), the Commission may cumulatively assess the effects of sales of like vessels from all countries with respect to which—

"(i) petitions were filed under section 802(b) on the same day,

"(ii) investigations were initiated under section 802(a) on the same day, or

"(iii) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,

if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.

"(17) INTERESTED PARTY.—The term 'interested party' means, in a proceeding under this title—

"(A)(i) the foreign producer, seller (other than the foreign producer), and the United States buyer of the subject vessel, or

"(ii) a trade or business association a majority of the members of which are the foreign producer, seller, or United States buyer of the subject vessel,

"(B) the government of the country in which the subject vessel is produced or manufactured,

"(C) a producer that is a member of an industry,

"(D) a certified union or recognized union or group of workers which is representative of an industry,

"(E) a trade or business association a majority of whose members are producers in an industry,

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E), and

"(G) for purposes of section 807, a purchaser who, after the effective date of an order issued under that section, entered into a contract of sale with the foreign producer that is subject to the order.

"(18) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—If the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph when the issue before the Commission is to determine whether there is or has been—

"(A) material injury to an industry in the United States,

"(B) threat of material injury to such an industry, or

"(C) material retardation of the establishment of an industry in the United States,

by reason of the sale of the subject vessel, an affirmative vote on any of the issues shall be treated as a vote that the determination should be affirmative.

"(19) ORDINARY COURSE OF TRADE.—The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time before the sale of the subject vessel, have been normal in the shipbuilding industry with respect to a like vessel. The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

"(A) Sales disregarded under section 822(b)(1).

"(B) Transactions disregarded under section 822(f)(2).

"(20) NONMARKET ECONOMY COUNTRY.—

"(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of vessels in such country do not reflect the fair value of the vessels.

"(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

"(i) the extent to which the currency of the foreign country is convertible into the currency of other countries,

"(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

"(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

"(iv) the extent of government ownership or control of the means of production,

"(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

"(vi) such other factors as the administering authority considers appropriate.

"(C) DETERMINATION IN EFFECT.—

"(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

"(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

"(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle A.

"(21) SHIPBUILDING AGREEMENT.—The term 'Shipbuilding Agreement' means The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, resulting from negotiations under the auspices of the Organization for Economic Cooperation and Development, and entered into on December 21, 1994.

"(22) SHIPBUILDING AGREEMENT PARTY.—The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

"(23) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

"(24) WTO MEMBER.—The term 'WTO member' means a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

"(25) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

"(26) AFFILIATED PERSONS.—The following persons shall be considered to be 'affiliated' or 'affiliated persons':

"(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(B) Any officer or director of an organization and such organization.

"(C) Partners.

"(D) Employer and employee.

"(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization, and such organization.

"(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

"(G) Any person who controls any other person, and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

"(27) INJURIOUS PRICING.—The term 'injurious pricing' refers to the sale of a vessel at less than fair value.

"(28) INJURIOUS PRICING MARGIN.—

"(A) IN GENERAL.—The term 'injurious pricing margin' means the amount by which the normal value exceeds the export price of the subject vessel.

"(B) MAGNITUDE OF THE INJURIOUS PRICING MARGIN.—The magnitude of the injurious pricing margin used by the Commission shall be—

"(i) in making a preliminary determination under section 803(a) in an investigation (including any investigation in which the Commission cumulatively assesses the effect of sales under paragraph (16)(F)(i)), the injurious pricing margin or margins published by the administering authority in its notice of initiation of the investigation; and

"(ii) in making a final determination under section 805(b), the injurious pricing margin or margins most recently published by the administering authority before the closing of the Commission's administrative record.

"(29) COMMERCIAL INTEREST REFERENCE RATE.—The term 'Commercial Interest Reference Rate' or 'CIRR' means an interest rate that the administering authority determines to be consistent with Annex III, and appendices and notes thereto, of the Understanding on Export Credits for Ships, resulting from negotiations under the auspices of the Organization for Economic Cooperation, and entered into on December 21, 1994.

"(30) ANTIDUMPING.—

"(A) WTO MEMBERS.—In the case of a WTO member, the term 'antidumping' refers to action taken pursuant to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

"(B) OTHER CASES.—In the case of any country that is not a WTO member, the term 'antidumping' refers to action taken by the country against the sale of a vessel at less than fair value that is comparable to action described in subparagraph (A).

"(31) BROAD MULTIPLE BID.—The term 'broad multiple bid' means a bid in which the proposed buyer extends an invitation to bid to at least all the producers in the industry known by the buyer to be capable of building the subject vessel.".

SEC. 204. ENFORCEMENT OF COUNTERMEASURES.

Part II of title IV of the Tariff Act of 1930 is amended by adding at the end the following:

"SEC. 468. SHIPBUILDING AGREEMENT COUNTERMEASURES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, upon receiving from the Secretary of Commerce a list of vessels subject to countermeasures under section 807, the Customs Service shall deny any request for a permit to lade or unlade passengers, merchandise, or baggage from or onto those vessels so listed.

"(b) EXCEPTIONS.—Subsection (a) shall not be applied to deny a permit for the following:

"(1) To unlade any United States citizen or permanent legal resident alien from a vessel included in the list described in subsection (a), or to unlade any refugee or any alien who would otherwise be eligible to apply for asylum and withholding of deportation under the Immigration and Nationality Act.

"(2) To lade or unlade any crewmember of such vessel.

"(3) To lade or unlade coal and other fuel supplies (for the operation of the listed vessel), ships' stores, sea stores, and the legitimate equipment of such vessel.

"(4) To lade or unlade supplies for the use or sale on such vessel.

"(5) To lade or unlade such other merchandise, baggage, or passenger as the Customs Service shall determine necessary to protect the immediate health, safety, or welfare of a human being.

"(c) CORRECTION OF MINISTERIAL OR CLERICAL ERRORS.—

"(1) PETITION FOR CORRECTION.—If the master of any vessel whose application for a permit to lade or unlade has been denied under this section believes that such denial resulted from a ministerial or clerical error, not amounting to a mistake of law, committed by any Customs officer, the master may petition the Customs Service for correction of such error, as provided by regulation.

"(2) INAPPLICABILITY OF SECTIONS 514 AND 520.—Notwithstanding paragraph (1), imposition of countermeasures under this section shall not be deemed an exclusion or other protestable decision under section 514, and shall not be subject to correction under section 520.

"(3) PETITIONS SEEKING ADMINISTRATIVE REVIEW.—Any petition seeking administrative review of any matter regarding the Secretary of Commerce's decision to list a vessel under section 807 must be brought under that section.

"(d) PENALTIES.—In addition to any other provision of law, the Customs Service may impose a civil penalty of not to exceed $10,000 against the master of any vessel—

"(1) who submits false information in requesting any permit to lade or unlade; or

"(2) who attempts to, or actually does, lade or unlade in violation of any denial of such permit under this section.".

SEC. 205. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.

(a) JUDICIAL REVIEW.—Part III of title IV of the Tariff Act of 1930 is amended by inserting after section 516A the following:

"SEC. 516B. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.

"(a) REVIEW OF DETERMINATION.—

"(1) IN GENERAL.—Within 30 days after the date of publication in the Federal Register of—

"(A)(i) a determination by the administering authority under section 802(c) not to initiate an investigation,

"(ii) a negative determination by the Commission under section 803(a) as to whether there is or has been reasonable indication of material injury, threat of material injury, or material retardation,

"(iii) a determination by the administering authority to suspend or revoke an injurious pricing order under section 806 (d) or (e),

"(iv) a determination by the administering authority under section 807(c),

"(v) a determination by the administering authority in a review under section 807(d),

"(vi) a determination by the administering authority concerning whether to extend the scope or duration of a countermeasure order under section 807(e)(3)(B)(ii),

"(vii) a determination by the administering authority to amend a countermeasure order under section 807(e)(6),

"(viii) a determination by the administering authority in a review under section 807(g),

"(ix) a determination by the administering authority under section 807(i) to terminate proceedings, or to amend or revoke a countermeasure order,

"(x) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(D) of that section, or

"(B)(i) an injurious pricing order based on a determination described in subparagraph (A) of paragraph (2),

"(ii) notice of a determination described in subparagraph (B) of paragraph (2),

"(iii) notice of implementation of a determination described in subparagraph (C) of paragraph (2), or

"(iv) notice of revocation of an injurious pricing order based on a determination described in subparagraph (D) of paragraph (2),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(2) REVIEWABLE DETERMINATIONS.—The determinations referred to in paragraph (1)(B) are—

"(A) a final affirmative determination by the administering authority or by the Commission under section 805, including any negative part of such a determination (other than a part referred to in subparagraph (B)),

"(B) a final negative determination by the administering authority or the Commission under section 805,

"(C) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(A) of that section, and

"(D) a determination by the Commission under section 845(a) that results in the revocation of an injurious pricing order.

"(3) EXCEPTION.—Notwithstanding the 30-day limitation imposed by paragraph (1) with regard to an order described in paragraph (1)(B)(i), a final affirmative determination by the administering authority under section 805 may be contested by commencing an action, in accordance with the provisions of paragraph (1), within 30 days after the date of publication in the Federal Register of a final negative determination by the Commission under section 805.

"(4) PROCEDURES AND FEES.—The procedures and fees set forth in chapter 169 of title 28, United States Code, apply to an action under this section.

"(b) STANDARDS OF REVIEW.—

"(1) REMEDY.—The court shall hold unlawful any determination, finding, or conclusion found—

"(A) in an action brought under subparagraph (A) of subsection (a)(1), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

"(B) in an action brought under subparagraph (B) of subsection (a)(1), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

"(2) RECORD FOR REVIEW.—

"(A) IN GENERAL.—For purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

"(i) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 843(a)(2); and

"(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(B) CONFIDENTIAL OR PRIVILEGED MATERIAL.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

"(c) STANDING.—Any interested party who was a party to the proceeding under title VIII shall have the right to appear and be heard as a party in interest before the United States Court of International Trade in an action under this section. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, and within the time prescribed by rules of the court.

"(d) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTERING AUTHORITY.—The term 'administering authority' has the meaning given that term in section 861(1).

"(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(3) INTERESTED PARTY.—The term 'interested party' means any person described in section 861(17).".

(b) CONFORMING AMENDMENTS.—

(1) JURISDICTION OF THE COURT.—Section 1581(c) of title 28, United States Code, is amended by inserting "or 516B" after "section 516A".

(2) RELIEF.—Section 2643 of title 28, United States Code, is amended—

(A) in subsection (c)(1) by striking "and (5)" and inserting "(5), and (6)"; and

(B) in subsection (c) by adding at the end the following new paragraph:

"(6) In any civil action under section 516B of the Tariff Act of 1930, the Court of International Trade may not issue injunctions or any other form of equitable relief, except with regard to implementation of a countermeasure order under section 468 of that Act, upon a proper showing that such relief is warranted.".

Subtitle B—Other Provisions

SEC. 211. EQUIPMENT AND REPAIR OF VESSELS.

Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466), is amended by adding at the end the following new subsection:

"(i) The duty imposed by subsection (a) shall not apply with respect to activities occurring in a Shipbuilding Agreement Party, as defined in section 861(22), with respect to—

"(1) self-propelled seagoing vessels of 100 gross tons or more that are used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredges), and

"(2) tugs of 365 kilowatts or more.

A vessel shall be considered 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.".

SEC. 212. EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.

No person other than the United States—

(1) shall have any cause of action or defense under the Shipbuilding Agreement or by virtue of congressional approval of the agreement, or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, the District of Columbia, any State, any political subdivision of a State, or any territory or possession of the United States on the ground that such action or inaction is inconsistent with such agreement.

SEC. 213. IMPLEMENTING REGULATIONS.

After the date of the enactment of this title, the heads of agencies with functions under this title and the amendments made by this title may issue such regulations as may be necessary to ensure that this title is appropriately implemented on the date the Shipbuilding Agreement enters into force with respect to the United States.

SEC. 214. AMENDMENTS TO THE MERCHANT MARINE ACT, 1936.

The Merchant Marine Act, 1936, is amended as follows:

(1) Section 511(a)(2) (46 App. U.S.C. 1161(a)(2)) is amended by inserting after "1939," the following: "or, if the vessel is a Shipbuilding Agreement vessel, constructed in a Shipbuilding Agreement Party, but only with regard to moneys deposited, on or after the date on which the Shipbuilding Trade Agreement Act takes effect, into a construction reserve fund established under subsection (b)".

(2) Section 601(a) (46 App. U.S.C. 1171(a)) is amended by striking ", and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date;" and inserting "and that such vessel or vessels were built in the United States, or, if the vessel or vessels are Shipbuilding Agreement vessels, in a Shipbuilding Agreement Party;".

(3) Section 606(6) (46 App. U.S.C. 1176(6)) is amended by inserting "or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party or in the United States," before ", except in an emergency.".

(4) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) Subsection (a) is amended by inserting "or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party," after "built in the United States".

(B) Subsection (k) is amended as follows:

(i) Paragraph (1) is amended by striking subparagraph (A) and inserting the following:

"(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

"(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States,".

(ii) Paragraph (2)(A) is amended to read as follows:

"(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

"(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States, but only with regard to moneys deposited into the fund on or after the date on which the Shipbuilding Trade Agreement Act takes effect.".

(5) Section 610 (46 App. U.S.C. 1180) is amended by striking "shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date," and inserting "shall be built in the United States or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party,".

(6) Section 901(b)(1) (46 App. U.S.C. 1241(b)(1)) is amended by striking the third sentence and inserting the following:

"For purposes of this section, the term 'privately owned United States-flag commercial vessels' shall be deemed to include—

"(A) any privately owned United States-flag commercial vessel constructed in the United States, and if rebuilt, rebuilt in the United States or in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and

"(B) any privately owned vessel constructed in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and if rebuilt, rebuilt in a Shipbuilding Agreement Party or in the United States, that is documented pursuant to chapter 121 of title 46, United States Code.

The term 'privately owned United States-flag commercial vessels' shall also be deemed to include any cargo vessel that so qualified pursuant to section 615 of this Act or this paragraph before the date on which the Shipbuilding Trade Agreement Act takes effect. The term 'privately owned United States-flag commercial vessels' shall not be deemed to include any liquid bulk cargo vessel that does not meet the requirements of section 3703a of title 46, United States Code.".

(7) Section 905 (46 App. U.S.C. 1244) is amended by adding at the end the following:

"(h) The term 'Shipbuilding Agreement' means the Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

"(i) The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

"(j) The term 'Shipbuilding Agreement vessel' means a vessel to which the Secretary determines Article 2.1 of the Shipbuilding Agreement applies.

"(k) The term 'Export Credit Understanding' means the Understanding on Export Credits for Ships which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development and was entered into on December 21, 1994.

"(l) The term 'Export Credit Understanding vessel' means a vessel to which the Secretary determines the Export Credit Understanding applies.".

(8) Section 1104A (46 App. U.S.C. 1274) is amended as follows:

(A) Paragraph (5) of subsection (b) is amended to read as follows:

"(5) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percent per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary, except that, with respect to Export Credit Understanding vessels, and Shipbuilding Agreement vessels, the obligations shall bear interest at a rate the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be;".

(B) Subsection (i) is amended to read as follows:

"(i)(1) Except as provided in paragraph (2), the Secretary may not, with respect to—

"(A) the general 75 percent or less limitation contained in subsection (b)(2),

"(B) the 87½ percent or less limitation contained in the 1st, 2nd, 4th, or 5th proviso to subsection (b)(2) or in section 1112(b), or

"(C) the 80 percent or less limitation in the 3rd proviso to such subsection,

establish by rule, regulation, or procedure any percentage within any such limitation that is, or is intended to be, applied uniformly to all guarantees or commitments to guarantee made under this section that are subject to the limitation.

"(2) With respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.".

(C) Section 1104B(b) (46 App. U.S.C. 1274a(b)) is amended by striking the period at the end and inserting the following:

", except that, with respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.".

Subtitle C—Effective Date

SEC. 221. EFFECTIVE DATE.

This title and the amendments made by this title take effect on the date that the Shipbuilding Agreement enters into force with respect to the United States.

TITLE III—GENERALIZED SYSTEM OF PREFERENCES

SEC. 301. SHORT TITLE.

This title may be cited as the "GSP Renewal Act of 1996".

SEC. 302. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

"(a) AUTHORITY TO DESIGNATE COUNTRIES.—

"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.

"(B) Canada.

"(C) European Union member states.

"(D) Iceland.

"(E) Japan.

"(F) Monaco.

"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

"(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

"(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

"(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

"(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

"(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) CONGRESSIONAL NOTIFICATION.—

"(1) NOTIFICATION OF DESIGNATION.—

"(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

"(a) ELIGIBLE ARTICLES.—

"(1) DESIGNATION.—

"(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

"(2) RULE OF ORIGIN.—

"(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

"(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

"(C) Import-sensitive electronic articles.

"(D) Import-sensitive steel articles.

"(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(F) Import-sensitive semimanufactured and manufactured glass products.

"(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) COMPETITIVE NEED LIMITATION.—

"(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

"(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for 1996, $75,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

"(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) DE MINIMIS WAIVERS.—

"(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for calendar year 1996, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

"(4) LIMITATIONS ON WAIVERS.—

"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

"(i) entered duty-free under this title during such calendar year; and

"(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORT TO CONGRESS.

"The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after May 12, 1997.

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

"SEC. 507. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and report to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Agricultural exports of beneficiary developing countries.
"Sec. 507. Definitions.".

SEC. 303. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title apply to articles entered on or after October 1, 1996.

(b) RETROACTIVE APPLICATION.—

(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—

(A) any article that was entered—

(i) after July 31, 1995, and

(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the

entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

(B) any article that was entered—

(i) after December 31, 1995, and

(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this title) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

(3) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 304. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p-4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended in subsections (a)(5)(F) (v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".

TITLE IV—REVENUE OFFSETS

SEC. 400. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Foreign Trust Tax Compliance

SEC. 401. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross

income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 402. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.

(a) IN GENERAL.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

SEC. 403. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—

Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 404. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

"(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary or any member of such beneficiary's family (within the meaning of section 267(c)(4)) has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 405. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 406. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

SEC. 407. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking "and" at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

"(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

"(E) any trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

"(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—

"(A) FOREIGN ESTATE.—The term 'foreign estate' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

"(B) FOREIGN TRUST.—The term 'foreign trust' means any trust other than a trust described in subparagraph (E) of paragraph (30).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle B—International Shipping Income Disclosure

SEC. 411. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

"(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

"(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of a ship or ships is not includible in gross income by reason of subsection (a)(1) or section 872(b)(1) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

"(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) with respect to any taxable year—

"(A) the amount of the income from the international operation of a ship or ships—

"(i) which is from sources without the United States, and

"(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

"(B) no deductions or credits shall be allowed which are attributable to income from the international operation of a ship or ships.

"(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 872(b) is amended by striking "Gross income" and inserting "Except as provided in section 883(d), gross income".

(2) Paragraph (1) of section 883(a) is amended by striking "Gross income" and inserting "Except as provided in subsection (d), gross income".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the later of—

(A) December 31, 1996, or

(B) the date that the Shipbuilding Agreement enters into force with respect to the United States.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury

or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

Mr. NICKLES. Mr. President, I ask unanimous consent the committee amendment be considered not agreed to; the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, the amendment to the title be considered tabled, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was rejected.

The bill (H.R. 3074) was deemed read for a third time, and passed.

MEASURE READ THE FIRST TIME—H.R. 3452

Mr. NICKLES. Mr. President, I understand H.R. 3452 has arrived from the House. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 3452) to make certain laws applicable to the Executive Office of the President, and for other purposes.

Mr. NICKLES. I now ask for its second reading and would object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The bill will remain at the desk pending its second reading on the next legislative day.

PROVIDING FOR THE SAFETY OF JOURNEYMEN BOXERS

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate immediately proceed to consideration of H.R. 4167, which is at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 4167) to provide for the safety of journeymen boxers, and for other purposes.

Mr. NICKLES. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 4167) was deemed read for a third time, and passed.

FALSE STATEMENTS ACCOUNTABILITY ACT OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (H.R. 3166) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3166) entitled "An Act to amend title 18, United States Code, with respect to the crime of false statement in a Government matter", with the following House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Statements Accountability Act of 1996".

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

"§1001. Statements or entries generally

"(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(2) makes any materially false, fictitious, or fraudulent statement or representation; or

"(3) makes or uses any false writing or document knowing the same to contain any materially false fictitious or fraudulent statement or entry;

shall be fined under this title or imprisoned nor more than 5 years, or both.

"(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

"(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

"(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

"(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.".

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.".

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking "Federal Government acting within his official capacity" and inserting "executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government".

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or ancillary to" after "any proceeding before"; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting "or ancillary to" after "a proceeding before" each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

Mr. SPECTER. Mr. President, I am pleased that the Senate is taking final action to enact the False Statements Accountability Act of 1996, legislation to overturn the Supreme Court's 1995 decision in Hubbard versus United States and restore the prohibition on making false statements to Congress.

The bill before us is in substance identical to the bill that passed the Senate on July 25, 1996, except in one respect. I do not want to reiterate all that I said at that time, so I will address at this time only the one substantive difference between the bill passed by the Senate and the current compromise we will vote on today.

As passed, the Senate bill provided blanket application to prohibit any false statement made to Congress or any component of Congress, including individual members and their offices. The coverage provided by the House bill was much narrower in scope. The trick was to reconcile the two approaches. Through detailed negotiations and the good faith of all concerned, we have been able to produce this compromise legislation, which restores the applicability of section 1001 of title 18 of the United States Code to the areas in which Congress most needs it.

First, the compromise covers false statements made in all administrative matters. This includes claims for payment, vouchers, and contracting proposals. The provision also covers all employment related matters, such as submitting a phony resume or making false claims before the Office of Compliance or Office of Fair Employment Practices. Also covered are all documents required by law, rule, or regulation to be submitted to Congress. This crucial provision will cover all filings under the Ethics in Government Act and the Lobbying Disclosure Act and provides a real deterrent to false filings under these two laws, among others. For this reason alone, this bill is one of the most important congressional reforms we will have taken during this Congress.

The compromise also applies the prohibition on false statements to an investigation or review conducted by any committee, subcommittee, commission, or office of the Congress. This

provision will prohibit knowing and willful material false statements to entities like the General Accounting Office and the Congressional Budget Office. False statements to the Capitol Police will also be covered.

The greatest difficulty was in formulating the scope of the applicability of the false statement prohibition to committees and subcommittees of each House of Congress. Only committee or subcommittee investigations or reviews conducted pursuant to the authority of the particular committee or subcommittee, meaning within its jurisdiction, will receive the protection of section 1001, and then only so long as the investigation or review is conducted in a manner consistent with the rules of the House or Senate, as relevant. This provision will allow each House to determine for itself whether to limit the circumstances in which committee or subcommittee investigations or reviews will be covered by section 1001. We do not intend, however, for the Senate to need to change its rules before false statements made to a committee or subcommittee conducting a review of a policy within its jurisdiction be punishable under this act.

In having the bill cover any investigation, we intend to cover formal investigations conducted pursuant to the rules of particular committees of the Senate, many of which have specific rules covering investigations. Thus, an investigation will be a more formal inquiry into a particular matter within the jurisdiction of a committee or subcommittee. Included in the definition of investigation are ancillary proceedings, such as depositions, and formal steps employed by certain committees that are a necessary prelude to an investigation, such as a preliminary inquiry and initial review employed by the Select Committee on Ethics.

The application of the bill to any review by a committee or subcommittee is broader. Under Rule XXVI (8) of the Standing Rules of the Senate, each committee "shall review * * * on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee." By using review in this law, we intend to cover all such review conducted by committees and subcommittees of the Senate. Often, we refer to such reviews as oversight. The sponsors of the bill, who include the chairman and former chairman of the Committee on Governmental Affairs, and the chairman and former chairman of the Permanent Subcommittee on Investigations, among others, intend that the term "review" be read broadly to cover all committee oversight and inquiries into the current operation of federal law and policy, compliance with Federal law, or proposals to improve Federal law, policy, or administration. In addition, we intend to capture within the meaning of review matters within committee jurisdiction that are not directly legislative, such as confirmation proceedings.

We chose to limit the act to committees and subcommittees, and their staff, because these are the entities through which Congress conducts its inquiries and oversight; these are the entities that hold hearings; these are the entities that can issue and enforce legal process; these are the entities charged with developing legislation for consideration by each House of Congress. Thus, section 1001 will not apply to statements made to individual members not acting as part of a committee or subcommittee investigation or review. This restriction should alleviate any concern that constituents exercising their right to petition Congress would fear prosecution for inadvertent or minor misstatements. No first amendment rights will be chilled by this bill. Nor will the bill apply to the statement of opinion or argument, as only knowing and willful false statements of fact are meant to be covered.

This is an important bill. I am pleased that enough Members of both Houses saw the need to act quickly on this legislation, which I believe to be absolutely necessary to protect the constitutional interests of the Congress. I want to thank my colleagues and cosponsors, in particular Senator LEVIN, the lead cosponsor, for their efforts. I also want to thank Representative Bill Martini, sponsor of the House companion, for pushing so hard to get this done, and Chairman BILL MCCOLLUM of the House Subcommittee on Crime, and his staff, Paul McNulty and Dan Bryant, for working so hard to reach agreement on this bill.

Mr. LEVIN. Mr. President, as a sponsor of S. 1734, the Senate-passed version of this legislation, I am pleased to join Senator SPECTER in urging passage of this bill. The House passed this bill, which restores criminal penalties for knowing, willful, material false statements made to a Federal court or Congress, by rollcall vote without a single vote in opposition. I hope we can pass it here by unanimous consent.

For 40 years, title 18 United States Code, section 1001 has been a mainstay of our legal system, by criminalizing intentional false statements to the Federal Government. In 1955, the Supreme Court interpreted title 18 United States Code, section 1001 to prohibit knowing, willful, material false statements not only to the executive branch, but also to the judicial and legislative branches. Last year the Supreme Court, in Hubbard versus United States, reversed this precedent and held that Section 1001 prohibits false statements only to the executive branch, and not to the judiciary or legislative branches.

The Supreme Court based its decision on the wording of the statute which doesn't explicitly reference either the courts or Congress. The Court noted in Hubbard that it had failed to find in the statute's legislative history "any indication that Congress even considered whether, section 1001, might apply outside the Executive Branch."

The obvious result of the Hubbard decision has been to reduce parity among the three branches. And the new interbranch distinctions are difficult to justify, since there is no logical reason why the criminal status of a willful, material false statement should depend upon which branch of the Federal Government received it.

Senator SPECTER and I each introduced bills last year to supply that missing statutory reference. This year, we joined forces, along with a number of our colleagues, and introduced S. 1734. It was passed by the Senate on July 26 of this year with the support of the administration. We then worked out our differences with the House, and that's how we are able to bring this final product before the Senate. I want to associate myself with the remarks of Senator SPECTER in describing the differences between H.R. 3166 and S. 1734.

Provisions to bar false statements and compel testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances that have arisen among the branches in these areas. It rests on the premise that the courts and Congress ought to be treated as coequal to the executive branch when it comes to prohibitions on false statements.

I want to thank Senator SPECTER and his staff, Richard Hertling, for their dedication to this legislation. We have been able to solve problems that arose because of the truly bipartisan approach we had to this bill. I also want to thank Senator HATCH, chairman of the Judiciary Committee, for recognizing the significance of this legislation and acting promptly on it in committee to get it to the Senate floor, and I want to thank the Members in the House, Congressmen MARTINI, MCCOLLUM and HYDE, without whose assistance this bill wouldn't be at this point. I also want to thank Morgan Frankel and Mike Davidson. Morgan is currently Deputy Senate Legal Counsel and Mike recently left as Senate Legal Counsel. Their experience with the work of the Senate was valuable in working through a number of technical issues. I particularly want to thank Elise Bean of my staff who is as capable as they come and simply an excellent lawyer.

Mr. President, I urge my colleagues to join Senator SPECTER, myself, and our cosponsors in sending this bill to the President for his signature.

Mr. ROTH. Mr. President, I rise today to indicate my full support for this bill, which returns to the Federal false statements statute, 18 U.S.C. §1001, the simple but vital proposition that lying to Congress is as unacceptable as lying to any other part of the Government.

This legislation has enormous practical importance for the oversight and investigative work performed by the Senate. As the past chairman of the Governmental Affairs Committee and the current chairman of the Permanent Subcommittee on Investigations, I have chaired many oversight hearings and conducted numerous investigations that have probed the efficacy of Federal Government programs and initiatives. Oftentimes, the Committee and Subcommittee's work has uncovered serious problems, sometimes of a criminal dimension. In the best of circumstances, gathering facts that may not reflect well on an agency, or a program, or an individual is difficult. Willful deceit out of the mouths of witnesses or in the documents they provide to Congress can make that job nearly impossible.

Until Hubbard was decided last year, the threat of criminal sanctions under §1001 was a powerful deterrent to such deceit, and it was the source of appropriate punishment for those who lie to Congress. We need to return §1001 to Congress' investigative and oversight arsenal, and this legislation will do just that. That being the primary effect of the legislation, it also works well-crafted and necessary changes to other aspects of Congress's ability to investigate, and I support those as well.

Many years ago, Woodrow Wilson wrote, "Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct." It is for this fundamental reason—that Congress must be able to scrutinize accurately the matters before it—that I am proud to co-sponsor this legislation and urge my colleagues to support it.

Mr. BRYAN. Mr. President, today the Senate has agreed to pass a very important bill, the False Statements Penalty Restoration Act (H.R. 3166).

When Congress originally enacted the False Statements Act, the Federal perjury statute, 18 U.S.C. Sec. 1001, to impose felony criminal penalties on an individual who knowingly and willfully makes a false or fraudulent statement, it thought it had created a criminal law that applied to all three branches of Government, including Congress. And since 1955, when the U.S. Supreme Court specifically held that the statute applied to all three branches, this was the law of the land.

However, in 1995, the U.S. Supreme Court held that the statute did not apply to the judiciary branch, thus creating uncertainty about whether false statements made to Congress and by Members of Congress were now covered by the law.

To our constituents, it once again appeared that Members of Congress were a special class to which a particular law did not apply—and that may have been the case.

Since the 1995 Supreme Court decision, indictments charging individuals with making knowing and willful false statements on financial disclosure forms and other reports have been dismissed. This situation must not be allowed to continue for one day more.

Today's legislation makes clear that Congress is indeed subject to this important law, as it should be. It returns us to where the law was for the last 40 years.

As a former chair and vice chair of the Ethics Committee, I know this legislation has particular significance. Without this legislation, there are currently no sanctions for deliberately filing false information in connection with these Federal reporting documents. To ensure the integrity of these reporting requirements, this bill must be enacted so it is very clear there are penalties for knowing and willful violations.

This legislation also addresses needed clarification in the obstruction of justice statute, 18 U.S.C. Sec. 1505. This law makes it a Federal offense to impede or obstruct an investigation of a congressional committee. In 1991, the D.C. District Circuit Court of Appeals held, however, that the statute did not clearly prohibit an individual from personally lying to or obstructing Congress in its investigations.

Again, I know first hand from my Senate Ethics Committee experience how this court interpretation risks impairing the ability of the Ethics Committee, and other congressional investigations to maintain any integrity in its proceedings. If a person can lie, or induce another to lie for him without worry of being prosecuted for such action, of what consequence would be any congressional investigation.

This legislation corrects the 1991 Supreme Court decision. Any individual who tries to impede a congressional or other governmental investigation, regardless of whether the individual acts on his own, or through the actions of another individual is going to be penalized—period.

I am pleased to support this legislation to remedy these ambiguities in our statutes, and ensure the integrity of Congress' investigations, and the Federal reporting requirements. For the American public, this bill also ensures that no member of Congress is above the law.

The following is a more detailed explanation of the changes this legislation will make, and its particular impact on the work of the Senate Ethics Committee, and other congressional investigations.

The Federal perjury statute, 18 U.S.C. Sec. 1621, punishes knowing false and material testimony, only if given under oath, such as in formal committee hearings and depositions. The Ethics Committee necessarily uses a variety of other, less formal fact-gathering techniques in the conduct of its initial examinations of complaints and preliminary inquiries, in order to determine whether there are sufficient grounds to warrant receipt of formal testimony through depositions and hearings.

It is critical to the Ethics Committee's ability to fulfill its responsibility to the Senate to investigate allegations of misconduct, and to the subjects of allegations to investigate fairly, that the committee's preliminary judgments about potential wrongdoing be based on the most accurate information possible. The availability of a criminal sanction under section 1001 for knowing false and material statements to the committee is an important safeguard to preserve the quality of the committee's investigative functions.

The absence of section 1001 liability may push the Ethics Committee to initiate formal proceedings more often, and earlier, than it would otherwise, just to ensure it receives truthful information. This premature heightening of ethics inquiries risks imposing unwarranted and unfair injury to subjects' reputations and unnecessary expense to the Senate.

This bill would restore the applicability of section 1001 to false material statements to congressional committees during inquiries.

Individuals who have knowingly filed false financial disclosure statements have in the past been convicted of violating the false statements statute, 18 U.S.C. Sec. 1001. Following the U.S. Supreme Court's reinterpretation of section 1001 last year, executive branch officials are still subject to punishment for false statements under section 1001, but congressional filers cannot be punished under section 1001 for identical misconduct. While congressional filers may potentially remain subject to sanction under other criminal code provisions, the applicability of these other provisions is untested and uncertain. Members of Congress and their staffs should not receive any possibility of special treatment, but should face the same criminal sanction for their false financial disclosures as other government officials.

In addition, the Senate Code of Official Conduct and Federal law require

the filing of a number of other reports and disclosure forms under various circumstances. These include reports of the acceptance of gifts from foreign governments, disclosure of employees' reimbursed travel expenses and authorization for such reimbursement, reports of designations of charitable contributions by registered lobbyists or foreign agents in lieu of honoraria, and reports of contributions to and expenditures from legal expense funds, among other matters for which reports or disclosure is required.

Without section 1001, there are currently no sanctions for deliberately filing false information in connection with any of these reporting requirements. For these disclosure and reporting requirements to fulfill the purpose for which they were established, there need to be clear penalties for willful violations of the rules by the filing of false reports.

The obstruction of justice statute, 18 U.S.C. Sec. 1505, makes it a Federal offense corruptly to impede or obstruct an investigation of a congressional committee. Historically, this provision has served to safeguard the integrity of congressional inquiries by providing a penalty for individuals who seek to obstruct a proper inquiry. In 1991, the D.C. Circuit Court of Appeals decision in the Poindexter case seriously eroded the protection of section 1505 by holding that, as applied to conduct undertaken by an individual witness him/herself, rather than through another individual, the law was unconstitutionally vague to be applied.

For a committee like the Senate Ethics Committee, which has the task of finding facts in sensitive and complicated cases involving potential misconduct of Senators, this narrowed interpretation raises serious risks of impairing the integrity of the committee's proceedings. In the case involving former Senator Bob Packwood, the Ethics Committee noted in its report that "the committee is specifically empowered to obtain evidence from Members and others who are the subject of committee inquiry, and it is entitled to rely on the integrity of such evidence. Indeed, the entire process is compromised and rendered wholly without value if persons subject to the committee's inquiry, or witnesses in an inquiry, are allowed to jeopardize the integrity of evidence coming before the committee." [Report at pages 142–43].

For many years, it has been understood that an individual who acts with improper or corrupt purpose to obstruct a committee or other Government investigation, whether by false or misleading testimony, the deliberate destruction or alteration of documents, or other nefarious means, commits wrongdoing subject to punishment under 18 U.S.C. section 1505. Now, after the Poindexter decision, a serious question exists whether an individual who engages in conduct to obstruct an investigation personally, rather than by persuading someone else to do so, may be called to account for such unacceptable conduct under section 1505.

It is my firm conviction that Congress has already acted legislatively through the present language of section 1505 to criminalize this conduct. However, since at least one court was apparently unclear on what Congress had in mind, it is important that we provide explicit guidance in the law so clear that no confusion will arise in the future.

This bill would correct the court's nonsensical interpretation of section 1505 by making clear that the statute prohibits witnesses from engaging with improper purpose in any of the variety of means by which individuals may seek to impede a congressional or other governmental investigation, whether doing so personally or through another individual, and whether by making false or misleading statements or withholding, concealing, altering, or destroying documents sought by congressional committees and other investigative bodies.

The Senate subpoena enforcement statute, 28 U.S.C. section 1365, provides the mechanism for Senate committees to go to court to seek assistance from the court in enforcing compliance with a subpoena of the committee. This system, which was enacted in 1978, permits a committee seeking necessary testimony or documents to apply to court, with the Senate's authorization, so that the witness may present his/her privilege or other basis not to comply with the Senate subpoena. If the court sustains the committee's position, it may order the witness to comply with the subpoena and thereby enable the committee to obtain the information it needs in a timely and fair manner.

Over the past 20 years, the availability of this system has proven extremely beneficial to Senate committees, including the Ethics Committee. The Ethics Committee utilized this process to obtain a judicial ruling on Senator Packwood's objections to providing portions of his diaries to the committee. In that case, the courts upheld the committee's position and Senator Packwood was ordered to turn over his diary materials, subject to the masking of privileged and personal information, which the committee respected. The process worked well and enabled the committee to obtain the evidence it needed to complete its responsibilities to the Senate and the public.

An ambiguity in the current statute, however, periodically threatens the ability of this salutary system to work to resolve controversies between Senate committees and witnesses. When the enforcement law was enacted, an exception was carved out for privilege assertions by the executive branch, so that the courts would not be called on to resolve disputes between the two political branches of Government. The drafting of that exception left some unfortunate doubt, however, as to its applicability when a witness who happened to be employed by the Federal Government was asserting a personal privilege or objection to a Senate subpoena, not a governmental privilege. The law was never intended to exclude such cases from judicial resolution and there is no good reason for so doing.

The ambiguity has created questions in some cases as to whether or not the Senate could utilize the civil enforcement mechanism to obtain judicial assistance with one of its committees' subpoenas. Even in the example, I described involving Senator Packwood, a question could have arisen whether, because he was a Senator, and, therefore, a Government officer, the exception precluded judicial enforcement of the Ethics Committee subpoena. Senator Packwood did not make such an argument, and the court did accept jurisdiction over the case.

However, the mere possibility of such a jurisdictional issue's arising creates an impediment to the swift and sure resolution of disputes over the entitlement of Senate committees to information they need. In the context of an important and sensitive ethics investigation, the risk of such a situation arising in the midst of an investigation is unacceptable. This bill would clarify section 1365 to make clear that the Senate may authorize committees to go to court to resolve subpoena disputes, whether with private individuals or Government employees, as long as the witness is raising a personal privilege or objection, rather than governmental privilege.

The final clarification in the bill involves the congressional immunity statute, 18 U.S.C. section 6005. Senate committees have power to confer use immunity, by vote of two-thirds of their membership, to compel witnesses to testify notwithstanding an assertion of Fifth Amendment privilege. Committees properly immunize witnesses very sparingly, only when they determine that receiving the testimony is necessary to the committee's task and that the possible adverse effect on future criminal prosecution is tolerable. Following the D.C. Circuit's decision in the North case, in particular, committees are on notice that conferral of use immunity to receive testimony in public hearings subject to television broadcast may have a dramatic impact on the ability of a prosecution to obtain a conviction for criminal wrongdoing. Since the North decision, Senate committees have proceeded exceedingly cautiously before agreeing to grant use immunity to a witness.

There are occasions, nonetheless, when immunity is appropriate and necessary to receive testimony from an essential witness. In such circumstances,

committees have properly conferred use immunity. This has happened in the Senate on a total of 10 occasions since the North decision. All but 1 of these instances—that is, 9 times out of the 10—were in the context of Ethics Committee investigations, when immunity was necessary to obtain information about allegations of wrongdoing by a Senator.

One of the tools that the Ethics Committee has used in these instances in order to help make sure that there are not adverse repercussions on criminal prosecutions is its authority to receive the immunized testimony in private session, as in staff depositions. Indeed, eight of the nine witnesses who were immunized for testimony at staff depositions, not at public hearings. This procedure enables the Committee to receive information that it needs, but to do so in a forum that does not run the risk of spreading a witness' immunized testimony across the nation's television screens.

Unfortunately, the technical drafting of the immunity statute has apparently left a question in some people's minds as to whether the Senate's immunity poser extends to authorized staff depositions, or only to committee hearings. This was raised as a serious problem in the Iran-Contra investigation and any committee that ever seeks to receive testimony under immunity in a deposition runs the risk of the issue being raised there to block the testimony. The Ethics Committee is the committee that bears the greatest chance of facing this impediment in the future.

Accordingly, this bill contains a very simple, but important, amendment to make clear that the congressional immunity statute covers ancillary proceedings, like staff depositions, as well as committee hearings. Immunity still would be conferred only on a two-thirds vote of the full committee, and would be done so sparingly. However, with this change, there will be no questions that committees would be able to compel immunized testimony at staff depositions, rather than being forced to receive the testimony in a committee hearing, where it could possibly later taint a criminal prosecution.

Mr. NICKLES. I ask unanimous consent the Senate concur in the House amendment to the Senate amendments.

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

ORDERS FOR SATURDAY, SEPTEMBER 28, 1996

Mr. NICKLES. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Saturday, September 28; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business, with statements limited to 5 minutes each.

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

PROGRAM

Mr. NICKLES. Following morning business on Saturday, the Senate will be awaiting House action on an omnibus appropriations bill, if produced from negotiations. The Senate may also be asked to turn to consideration of any other items cleared for action. Rollcall votes are therefore possible throughout the day on Saturday. The leadership will attempt to give adequate notice to Members in the event that rollcall votes prove to be necessary.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:54 p.m., adjourned until Saturday, September 28, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1996:

NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1999. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

BRIAN C. CONROY
RONALD J. MAGOON
ARLYN R. MADSEN, JR.
CHRIS J. THORNTON
KEITH F. CHRISTENSEN
DOUGLAS W. ANDERSON
TIMOTHY J. CUSTER
NATHALIE DREYFUS
SCOTT A. KITCHEN
KURT A. CLASON
JACK W. NIEMIEC
GREGORY W. MARTIN
RHONDA F. GADSDEN
NONA M. SMITH
GLEN B. FREEMAN
WILLIAM H. RYPKA
ROBERT C. LAFEAN
GERALD F. SHATINSKY
THOMAS J. CURLEY III
STEVEN M. HADLEY
JEROME R. CROOKS, JR.
JOHN F. EATON, JR.
CHARLES A. HOWARD
DAVID H. DOLLOFF
MARK A. HERNANDEZ
STEPHEN E. MAXWELL
ROBERT E. ASHTON
DAVID W. LUNT
ABRAHAM L. BOUGHNER
WILLIAM J. MILNE
GLENN F. GRAHL, JR.
GREGORY W. BLANDFORD
ANNE L. BURKHARDT
DOUGLAS C. LOWE
THOMAS M. MIELE
EDDIE JACKSON III
ANTHONY T. FURST
MATTHEW T. BELL, JR.
DUANE R. SMITH
MARC D. STEGMAN
KEVIN K. KLECKNER
WILLIAM G. HISHON
JAMES A. MAYORS
LARRY A. RAMIREZ
WYMAN W. BRIGGS
BENJAMINE A. EVANS
GWYN R. JOHNSON
TRACY L. SLACK
GEOFFREY L. ROWE
THOMAS C. HASTING, JR.
JOHN M. SHOUEY
WILLIAM H. OLIVER II
EDWARD R. WATKINS
TALMADGE SEAMAN
WILLIAM S. STRONG
MARK E. MATTA
RICHARD C. JOHNSON
JANIS E. NAGY
JAMES O. FITTON
SALVATORE G. PALMERI, JR.
TERRY D. CONVERSE
MARK D. RIZZO
MARK C. RILEY
SPENCER L. WOOD
ERIC A. GUSTAFSON
RICARDO RODRIQUEZ
CHRISTOPHER E. AUSTIN
RANDALL A. PERKINS III
RICHARD R. JACKSON, JR.
TIMOTHY B. O'NEAL
PETE V. ORTIZ, JR.
ROBERT P. MONARCH
PAUL D. LANG
EDWARD J. HANSEN, JR.
DONALD J. MARINELLO
PAUL E. FRANKLIN
CHARLES A. MILHOLLIN
STEVEN A. SEIBERLING
DENNIS D. DICKSON
SCOTTIE R. WOMACK
TIMOTHY R. SCOGGINS
RONALD H. NELSON
GENE W. ADGATE
HENRY M. HUDSON, JR.
BARRY J. WEST
FRANK D. GARDNER
JEFFREY W. JESSEE
RALPH MALCOLM, JR.
GEORGE A. ELDREDGE
DONALD N. MYERS
SCOTT E. DOUGLASS
RICHARD A. PAGLIALONGA
JOHN K. LITTLE
JAMES E. HAWTHORNE, JR.
SAMUEL WALKER VII
JAY A. ALLEN
ROBERT R. DUBOIS
GORDON A. LOEBEL
ROBERT J. HENNESSY
GARY T. CROOT
THOMAS E. CRABBS
SAMUEL L. HART
STEVEN D. STILLEKE
WEBSTER D. BALDING
JOHN S. KENYON
CHRISTOPHER N. HOGAN
DOUGLAS J.CONDE
THOMAS D. COMBS III
WILLIAM R. CLARK
BEVERLY A. HAVLIK
DONNA A. KUEBLER
THOMAS H. FARRIS, JR.
TIMOTHY A. FRAZIER
TIMOTHY E. KARGES
ROCKY S. LEE
DAVID SELF
RANDY C.TALLEY
JOHN D. GALLAGHER
ROBERT M. CAMILLUCCI
ROBERT G. GARROTT
CHRISTOPHER B. ADAIR
GREGORY W. JOHNSON
ERIC C. JONES
SCOT A. MEMMOTT
JOHN R. LUSSIER
GREGORY P. HITCHEN
MELVIN W. BOUBOULIS
RICHARD W. SANDERS
MELISSA BERT
JASON B. JOHNSON
ANITA K. ABBOTT
RAYMOND W. PULVER
VERNE B. GIFFORD
STUART M. MERRILL
SCOTT N. DECKER
JOSEPH E. VORBACH
PETER W. GAUTIER
KEVIN E. LUNDAY
MATTHEW T. RUCKERT
BRIAN R. BEZIO
CHRISTOPHER M. SMITH
CHRISTINE L. MACMILLIAN
ANTHONY J. VOGT
JOANNA M. NUNAN
JAMES A. CULLINAN
JOSEPH SEGALLA
DONALD R. SCOPEL
JOHN J. PLUNKETT
GWEN L. KEENAN
CHRISTOPHER M. RODRIGUEZ
RICHARD J. RAKSNIS
PATRICK P. O'SHAUGHNESSY
MARC A. GRAY
ANTHONY POPIEL
GRAHAM S. STOWE
MATTHEW L. MURTHA
CHRISTOPHER P. CALHOUN
JAMES M. CASH
KYLE G. ANDERSON
DWIGHT T. MATHERS
JONATHAN P. MILKEY
PAULINE F. COOK
MATTHEW J. SZIGETY
ROBERT J. TARANTINO
RUSSEL C. LABODA
JOHN E. HARDING
ANDREW P. KIMOS
CRAIG S. SWIRBLISS
JOHN T. DAVIS
JOHN J. ARENSTAM
ANTHONY R. GENTILELLA
JOHN M. FITZGERALD
JOHN G. TURNER
KIRK D. JOHNSON
RAMONCITO R. MARIANO
DAVID R. BIRD
LEIGH A. ARCHBOLD
WILLIAM B. BREWER
DANA G. DOHERTY
WILLIAM G. KELLY

THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

MONICA L. LOMBARDI
MICHAEL E. TOUSLEY
LATICIA J. ARGENTI
THOMAS F. LENNON
SLOAN A. TYLER
DONALD A. LACHANCE II
KAREN E. LLOYD

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTIONS 618 AND 628 OF TITLE 10, UNITED STATES CODE:

TODD H. GRIFFIS, X...